

and abroad, and he clearly suggested that the measure before the Council was one that would go—at least to some extent—to prevent the mischievous effects of their propaganda. My Lord, if I felt half as sure of it as evidently does the Hon'ble the Home Member, I would have given my whole-hearted support to the Bill. But after a careful consideration of the measure I have arrived at the conclusion that the Bill, if enacted, would in no way touch revolutionary propaganda. The Hon'ble Mr. Jenkins gave us a fairly exhaustive catalogue of the methods of the revolutionary party. These are, in his own words, the introduction into and publication in India of large quantities of seditious literature, the writing of threatening letters, the posting of seditious placards in public, and the planning to import arms into this country. Now, I would very much like to know which of these activities it is contemplated to combat by the Bill before us. It would be insulting the intelligence of this Council to labour the point that there are no provisions in this Bill to check any of these tactics of the revolutionary party. As remarked by a leading Anglo-Indian daily of this city—the *Indian Daily News*—in regard to 'its utility to capture the anarchists, it will prove about as useful as a torpedo boat to catch eels.' That being so, the only suggested justification for the present measure seems to me to be untenable. And while on the subject of the revolutionary party I would like to invite the attention of this Council to the remarks of the Government of the Lower Provinces in their Annual Administration Report for the year 1909-10. It is stated that 'there are already good grounds for believing that ... the anarchist movement has been paralysed, at any rate for the present.' This is with reference to the condition as it existed one year back. Since then there has been one murder and one attempt at it, which are regarded as the outcome of the anarchist propaganda; but we would do well to remember in this connection the wise and weighty words of Lord Minto in the course of his speech recently delivered in London. He said:—

'Anarchical crimes in India, I am afraid, we are always exposed to. We all know that other countries are not free from them. The bomb has unfortunately been introduced into India; it has to a certain extent gained a footing. Anarchical plots require the most careful watching. They are very much of the same nature as crimes committed in European countries; and there is no greater mistake than to believe that, if an outrage occurs, it is due to general sedition or to general disloyalty on the part of the people of India.'

"That is just the point, that, by reason of an isolated anarchical outrage, the vast bulk of the people of all classes and creeds, who are loyal to the British Crown, should not be made to suffer by curtailments of rights which they have come to cherish as indefeasible concomitants of British citizenship and the possession and enjoyment of which have intensified in them that spirit of loyalty to their sovereign which is ingrained in the Indian mind. It is because it seems to me that the Bill, if enacted, will in no way affect the revolutionary party, but that it will entail a great hardship on the bulk of the people by curtailing liberty of speech, that I deeply deplore the action of the Government in coming before the Legislature for the enactment of this Bill. The Seditious Meetings Act of 1907 has already largely demoralized public life in this country, and the effect of the present enactment will be to deepen that depression and demoralization.

"Coming to the details of the Bill, I must acknowledge the many improvements made in it on the legislation embodied in the Seditious Meetings Act, and I beg to tender to Your Excellency's Government my grateful acknowledgments for the changes introduced. Some of these changes are certainly important and are calculated to render the working and the operation of the Act less liable to abuse. 'The Act of 1907'—I am quoting an Anglo-Indian paper—'might, in the hands of an arbitrary Local Government, have been employed in such a way as to molest private gatherings or to interfere with legitimate public meetings.' As a matter of fact that Act has been on many occasions so utilized. In this respect the present Bill is certainly an improvement, with the result that it is less likely to be oppressive in its operation. And to this extent the country is deeply beholden to Your Excellency's Government for meeting with popular wishes. I confess I have read with some surprise in the editorial observations of the *Englishman* that 'on the

whole, the concessions that have been made are not very important.' On the contrary, I am persuaded that if a measure like the one embodied in this Bill has unfortunately got to be placed on the Statute-book, to arm the executive with such powers as they deem necessary to possess, to cope with what they evidently regard as an exceptional situation, the Bill in its present form—while no doubt still capable of improvement—is about as little stringent and oppressive as it could be, under the circumstances. I trust that the Hon'ble the Home Member will be satisfied with this acknowledgment of my humble appreciation of the endeavours made by him to meet with popular wishes, though I wholly differ from him in regard to the principle of the Bill and the expediency or desirability of any such legislation in the present improved condition of the country.

"My Lord, I believe that the powers that the executive may require to cope with the state of affairs at present are adequately available to them in the Indian Penal Code and the Criminal Procedure Code, and it was under section 144 of the latter Code that the authorities at Barisal prohibited the session of, in my opinion, an innocuous meeting, namely, the Bengal Provincial Conference, in March 1907, anterior to the enactment of the Seditious Meetings Act. I feel sure that in section 144 of the Criminal Procedure Code the executive authorities are in possession of ample powers for proscribing all meetings likely to indulge in mischievous or inflammatory propaganda. The new Bill is therefore open to the charge of its being a replication of powers already vested in the executive, with this difference, that whereas the act of the officer under the Codes is a judicial proceeding, which might be challenged, that under the present Bill is made purely executive and absolutely final; and to this extent, therefore, the provisions of the measure under discussion, where they differ from the existing law in the Penal and Procedures Codes, differ for the worse.

"My Lord, it is to me a matter of genuine regret that in the very first session of the Council over which Your Excellency has presided the legislature should be called upon to enact a measure of this character, and that too in a year which is sure to be rendered memorable by the presence amongst us of their Most Gracious Majesties the King-Emperor and the Queen-Empress. At a time like this, the Government should not have placed before this Council, and invoked its assistance in passing, a measure that will act as an irritant, in place of an emolient, to the feelings of a large section of His Majesty's subjects. I trust that in spite of the Hon'ble Mr. Jenkins' prophecy that he hoped that this Bill was now before this Council for the third and last time, it would come up once again, before long, with the object of being repealed. When that day comes, it will be good for the Government and the people alike. My Lord, it would be a mistake to suppose that any non-official Member of this Council would be so short-sighted as not to realize the advantage of co-operating with the Government by giving to it all the support he can, consistently with his regard for the interests of the community he represents. I think some of us might have supported the Bill in its present form as a temporary measure, not because we are convinced of its necessity, but to satisfy the Government of our sincere desire to strengthen the hands of the executive in dealing with what is still regarded, though I fear wrongly, as an abnormal situation. But with the sincerest desire to meet the Government even more than half-way, we cannot shut our eyes to the danger of such legislation being made a permanent part of our Statute-book."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA: "My Lord, 'it cannot be regarded as anything but a misfortune for the Government and for the people that the Government should consider it necessary to bring forward such a measure before the Council. It cannot be denied that it is a measure of repression. The changes which have been introduced are no doubt very material; but still the measure retains its character of being an exceptional measure, which can only be justified by exceptional circumstances prevailing in the country. Now, my Lord, if such circumstances existed, I believe there would be no difference of opinion as to the introduction of such a measure. But it cannot be seriously disputed that the circumstances which existed in 1907, when the



measure was first introduced, do not exist in the India of to-day. It has been freely admitted by the Hon'ble the Home Member and by the various Local Governments that there has been a great deal of change in the circumstances which existed in the year 1907, and that the change has been all for the better. A careful perusal of the opinion of Local Governments, and of the speech which the Hon'ble Member delivered in introducing the Bill, would lead a careful observer to the conclusion that there is no present necessity for passing such a Bill as is before the Council. The law is asked for mainly on the ground that it should be available as a ready instrument to be used by the Government whenever occasion may arise for it. Now, my Lord, no well-wisher of the Government and of the people would desire that the Government should not be armed with any power that may be really necessary to prevent the spread of sedition or seditious disturbances in the country. And if there was any difficulty in the way of the Government enacting such a measure when the need for it arose, the placing of such a measure as is now before the Council permanently on the Statute-book would have much to be said in its justification. But apart from the fact that there is a great body of law on the Statute-book which can and which does enable the Government effectively to check the spirit of sedition, we know that not only can the Government of India, under the Indian Councils Act, pass any law that may be necessary at one sitting of this Council, but also that Your Excellency has the power under section 23 of the said Act to make and promulgate any Ordinance which the emergency of the case may require to deal with the situation. In view of these circumstances, I beg leave to ask if it is necessary at this moment to place a measure like this permanently on the Statute-book? With all the respect due to the Government, I feel it my duty to the Government, no less than to the people, to submit that it is not. It will not be clear to a large section of the general public why such a measure should be placed permanently on the Statute-book at a time when it is admitted on all sides that there is a general political calm prevailing all over the country; but in view of the fact that the Government of India, acting with the unanimous advice of the Local Governments, have come to the conclusion that the law in question should be made permanent, it seems not only unnecessary but useless to repeat the many arguments which have been urged in the past and many which have been urged or suggested in the debate to-day against a measure of the character before us. I frankly and thankfully acknowledge the several important changes which have been made in the existing Act, which have removed some of the most serious objections which had been urged against it. These changes are very valuable, and I have no doubt that they will be fully appreciated by the public and will help them to be reconciled to the measure. If the Government will be pleased to go a little further, and restrict the duration of the Bill to a period of three years or so, I venture to think that most of us will agree to accept the Bill. But however that may be, even if the Bill is passed as it is, it is to be hoped in the interest of good government, which includes the best interests of the administration and of the people, it is devoutly to be hoped that the measure will remain a dead-letter, and that if unfortunately it is ever put into operation, both the Government and the public will jealously watch its application to ensure that it should only strike at the noxious growth of sedition and not hang as a blight on unexceptionable healthy activity."

The Hon'ble MR. MACPHERSON: "With Your Excellency's permission I will read a speech which has been handed to me by the Hon'ble Raja Partab Bahadur Singh of Partabgarh. (The Hon'ble Member then read the following speech):—

"It is with reluctance as well as with pleasure that we have met here to-day to discuss the advisability of re-enacting the Seditious Meetings Bill and placing it permanently on the Statute-book—reluctance, because there should ever have arisen the necessity of such a measure in India, the soil of which was not congenial to the growth of sedition and anarchy, and where loyalty and complete submission to the Crown were the characteristics of every inhabitant of this vast land; pleasure, because it places all the law-abiding people beyond the

reach of the influence of mischief-makers and sedition-mongers. It is indeed in the interests of good government, nay in the interests of the people themselves, that the State should be well-equipped with weapons to meet the assaults that might at any time be made on its security. But, my Lord, before forging any such weapon in the legislative workshop, it is necessary for us to see whether it will serve any useful purpose and produce any salutary effect. For this we have simply to look back to the conditions that prevailed in India before the year 1907, when the Government was obliged to enforce an Act for the prevention of seditious meetings. It was a time when in some parts of the country murders, assassinations, conspiracies and dacoities were of frequent occurrence—much of this mischief was undoubtedly due to the inflammatory speeches and public writings in the Press—and public peace and tranquillity were at stake. It was a time when it was feared that if this state of affairs were allowed to continue longer the germs of sedition might spread like wild fire. These were the circumstances that necessitated the enforcement of the Seditious Meetings Act. If we compare that state of affairs with what it is at present, we will find the situation has improved. Nevertheless it cannot be said without fear of contradiction that the country is now in a fit state to dispense with the measures the Government had to adopt in exceptional times. The recent outrages committed in the metropolis of the Indian Empire and also the mischievous doings of some people elsewhere go to show that there still exists the need of an extraordinary measure like this, and sedition has not yet died out.

“Now, the question arises as to what has been the important factor in bringing about this change for the better. The answer is not far to seek. In my humble opinion such measures as have the effect of saving the masses and youths of the country from falling a prey to the pernicious influence of those misguided persons who want to disturb the peace of the country, have been greatly helpful in improving the situation, and are, therefore, essentially required for good government and the safety of the people.

“With these few words I beg to give my cordial and unqualified support to the Bill.”

The Hon'ble MR. MADGE: “My Lord, as one of those who entirely approved of the original Act when it was brought in, I must confess to some sense of disappointment when I first read the amendments of the present Bill. My disappointment arose from the fact that the original Act was undoubtedly effective, and that the amendments seem to me to shed some of the principal elements of its efficiency; and but for a fact which I shall presently mention, my disappointment would be deepened by the admissions which have been made by some of the opponents of this Bill, to the effect that it will not effect the purposes for which it is being enacted. That the original Act has produced a remarkable change in the country will not, I think, be denied by anybody who has studied the signs of the times for the last three or four years; and if the present opponents of the amended Bill think it will not effect its purpose, that would be an argument in my mind for going back to the original Act rather than for disapproving of any legislation whatsoever. But the fact to which I have referred is this, that the Executive Government, which no doubt possesses better information regarding the conditions prevailing in this country than we do, has brought in a Bill and is satisfied with it, and to my mind that is a sufficient reason for supporting the Bill.

“My principal reason, my Lord, for rising is to combat two arguments that I have heard here this morning. One is that this Bill casts a stigma upon the whole province. That is a kind of argument which I have never heard anywhere else. The Bill is directed against a specific class of crime committed by certain persons. How it can cast a stigma upon anybody else, it is really difficult to understand. The only ground on which a Bill of this kind can cast a stigma upon any other class than those who are incriminated by it would be that it has urged certain classes who were timid beforehand to come forward more boldly to condemn crime than they did in the earlier stages of anarchy. Now, my Lord, I am very slow to impute any kind of motive to anybody or to find fault with any one; but no one can have lived in Calcutta for the last four or five



years without feeling that the intellect and the character of the country were not displayed against this crime when it first arose. It was a common complaint in all the Anglo-Indian Press that, situated as the Government was in a foreign country, it was entitled to more help from people who could assist both in the suppression of crime and in the detection of crime when it was committed than they did. And therefore, if this Bill casts any kind of stigma upon anybody else than the criminals themselves, it can only be because it has produced a certain effect, which ought to have come about from the natural loyalty of the country without the stimulus of such an Act.

"The other argument that I wish to meet is that ephemeral legislation ought to be resorted to against any class of crime, even exceptional crime. My Lord, all crime is exceptional. I do not think there is a single crime mentioned in the Statute-book which is not exceptional in its character. As I humbly ventured to point out in Simla, the differences in crime are of degree and not of kind. The whole lot of them are offences against the public peace or against society and the welfare of the country, and that any crime should once show its face in any country and be legislated for, and the legislation be allowed to die out because the crime seems to be partially suppressed,—nobody can say that it has been wholly suppressed,—is an argument that carries no weight whatever with me.

"I am quite aware that analogies between disease and crime may be overstrained, but there is a certain resemblance between this proposal to have temporary legislation against what is thought to be temporary crime and proposal, for instance, to abolish vaccination because it was very unpopular any small-pox had died down for a little while. The conditions that bring about small-pox are to my mind as mysterious as those that bring about crime. They have been hunted down successfully by preventive measures, but I do not suppose that the real mystery of the thing has ever been found out. And I am afraid the mystery of crime here or anywhere else will never be found out except in the fallibility of human nature which is prevalent everywhere. Any crime which has shown itself here is exceptional in much the same manner, and I humbly maintain that no Act ever passed against any phase of crime ought ever to be abolished."

The Hon'ble MR. GRAHAM: "My Lord, I wish this afternoon, on behalf of those whom I represent, to give my cordial support to this Bill. I cannot conceive that the Bill as it now stands could possibly be a hardship to any law-abiding citizen in any ordinary area in India, and if any area at any time becomes abnormal and sedition becomes rife, then I do not think anybody can cavil at the Government having this power behind it to deal with sedition and seditious meetings. If this Bill had been enacted fifteen or twenty years ago and had been on the Statute-book for the whole time, I personally think that the sterner measure, which this Bill is now to take the place of, might never have been wanted. I therefore wish to support the Bill."

The Hon'ble MR. GOKHALE: "My Lord, it is with considerable reluctance and regret that I rise to take part in to-day's discussion. I had hoped, like so many of my friends, that the occasion for this discussion would not arise, that in view of the great improvement, which has taken place in the general situation of the country, and to which the Hon'ble Mr. Jenkins bore testimony the other day, the Government would not consider it necessary to prolong this legislation, and that in any case they would not seek to place the measure permanently on the Statute-book. As, however, the Government have come to the conclusion that they must continue to have this weapon in their armoury, and have it permanently, those who are unable to acquiesce in this view have no choice but to express their dissent, and that is why I must trouble the Council with a few observations.

"My Lord, I do not propose to approach this question from the standpoint of abstract principles. Far be it from me to under-rate the importance of abstract principles. Abstract principles are usually derived from the accu-

culated wisdom and experience of ages, and in stimulating generous sentiment, in sustaining high ideals, and in lighting the path of life over dark and difficult ground, they are of inestimable value. But no thinker has ever urged that mere abstract principles should guide us, without reference to the circumstances amidst which they have to be applied. Thus the abstract principle of freedom of speech must be taken in relation to the circumstances amidst which that freedom is claimed; and I am quite willing to concede that the theoretical objection to any proposed legislation that it restricts the right of free speech must be further supported by an examination of its practical consequences before it can be regarded as conclusive. But, my Lord, just as the right of free speech is an abstract right, so also the proposition that all loyal citizens must rally round the executive in maintaining law and order is an abstract proposition, and its value as a guide for practical conduct must depend upon the circumstances amidst which it is sought to be applied. I think, my Lord, when loyal citizens are called upon to rally to the support of the Government in any measures it considers necessary to maintain law and order, two questions have to be considered. First, what is the danger against which the Government wants to take measures, and secondly, what is the character of the measures which the Government wants to take? And this again leads us to another enquiry. Is the need of the Government urgent and immediate, or is the Government anxious only to take precautionary measures? If the need of the Government is urgent and immediate, then of course all ordinary considerations must be put aside, and every loyal citizen must range himself on the side of the Government in sanctioning and enforcing the measures that are thought to be indispensable. In a state of actual disturbance, in a state of dangerous activity on the part of elements hostile to the very existence of the Government, I can understand the Government calling on all loyal citizens to rally round it in this manner. But where the measures contemplated are more precautionary than required to meet an urgent and immediate situation, where the measures contemplated are more against possible developments in the future than any present need, there, I venture to think, that a different set of considerations apply. Now, my Lord, it is freely admitted that the present situation of the country is not of a character to demand such legislation for immediate use. We have been told that very probably this law—when the Bill becomes law—will not be put into force at all in the near future. Therefore, it cannot be claimed that the need of the Government is urgent and immediate, and we are entitled to take it that the measure is intended to serve the purpose of a precautionary measure. Let us, therefore, examine the measure as a precautionary measure. And here there are two standpoints from which it may be viewed: one, the standpoint of the Government, and the other that of the representatives of the public who are called upon to assist the Government in such legislation. The Government naturally, in passing a precautionary measure, has, first of all, to consider how it can be made effective. A measure like this is not worth having unless it is reasonably effective. The representatives of the public, on the other hand, have, first of all, got to consider, since there is no immediate danger to be met, what harm is likely to result if the powers conferred by the measure are abused, and how to prevent such possible abuses. No one can deny that abuses are possible, even in regard to most carefully framed measures. Now, my Lord, so far as the effectiveness of this measure is concerned, I will freely admit, what has indeed been already admitted by so many of my Hon'ble friends, that, from the standpoint of the Government, it could not have introduced a milder measure than this. The more objectionable features of the Act of 1907 have been removed, and if, when the need arises, this law is applied with reasonable care and caution, it is not likely to produce any serious hardship. I am free to admit that at once, and I do not think there is any difference of opinion on that point. But while the Government may claim to have removed from the old law its harsher features, we, here, who represent the public, that will have to come under this law, have also got to consider what will happen if the powers which this law confers are abused; and from that standpoint, my Lord, I submit that, though a great deal of cargo has been thrown out of the vessel, still enough remains to fill our minds with apprehension. Let us, my Lord, take the case of an area which comes to be



proclaimed under this law. It is quite true that the Government of India will have first to extend the notification to the province; it is quite true that the Local Government will have next to proclaim the area, and that, too, now, after first obtaining the sanction of the Governor General in Council; but after all, in the last analysis, it is the opinion of local officers that will generally prevail in these matters. If the local officers strongly hold that a particular area is developing a dangerous activity,—whether it is actually doing so or not is a different question,—if the local officers think so, the Local Government, in ninety-nine cases out of a hundred, will endorse that view; and when the Local Government urges this view upon the Government of India, I think it is very improbable that the Government of India will refuse to extend this law to that particular province and that particular area. Therefore, my Lord, in the last resort, it is the opinion of local officers that will really prevail; and when once an area has been placed under this law, the Local Government and the Government of India will, so to say, be out of it, and it is the district authorities that will then apply the law and stand face to face with the people.

“Now, my Lord, I do not wish to make any general or sweeping observations about district officers. The district authorities of this country try to do their duty as conscientiously as any body of human beings, similarly circumstanced, can do; and they have their exceptional and their average men. There are in their ranks some who are exceptionally high-minded and conscientious; a large number who merely take a routine view of things, and do what they consider to be their duty without considering how it will affect the people; and some who are intolerant of all criticism and who certainly will not hesitate to use the powers which a law like this will confer on them, in order to put down all political agitation, whatever its necessity or character. And I distinctly fear that in an area proclaimed under this law, there is no small likelihood of these exceptional powers being abused. It must be borne in mind that district authorities, in their turn, are dependent for their information upon the police, and it is well known that the police of the country as a class are feared and not trusted. Therefore, there is a serious danger that the powers under this Act may be abused; and since there is this liability to abuse, it becomes necessary for the representatives of the people in this Council to consider what should be their attitude towards a measure of this kind. My Lord, I have considered this question long and anxiously, not only in connection with this particular measure, but also on other occasions, which have arisen in the past, as to what should be our attitude towards the repressive measures which the Government comes to consider as necessary. The position, briefly, is this. The Government of India considers certain legislation to be necessary in order that certain evils, actual or anticipated, should be coped with properly. The Government's intentions, of course, are beyond question. The Government only wants the remedy to be applied to the evils and does not want any excessive zeal on the part of any of their officers. If the non-official Members of this Council take only the intentions of Government into consideration and raise no objection to the proposed legislation, they become responsible for that legislation along with the Government. As soon, however, as the legislation is passed, the matter gets out of the hands of the Government of India; and wherever the legislation happens to be enforced, every officer who administers the law comes to be armed not only with the spirit of the law but also with the letter of the law. And, then, when abuses occur, non-official Members, who have been assenting parties to the legislation, find themselves placed in a very awkward position. I will illustrate my meaning by what occurred last year in connection with the Press Bill. Last year, when the Government of India introduced a drastic Press law, it was a time of considerable anxiety for the Government. And if ever the Government was entitled to the co-operation of the people in repressive measures, it was at that time. A generous measure of Council reform had been conceded, and when the new Council was about to meet, a diabolical murder had taken place here in the very precincts of the High Court. The time was such that every generous sentiment urged one not to judge the proposals of Government in any very critical spirit. When the Government brought forward its measure, ample material was laid before the Select Committee, which satisfied many of us that in several parts of the country, a section of the Press habitually went beyond all

reasonable bounds and needed to be controlled; and that if the Government were to rely merely on ordinary prosecutions, the evil was most difficult to deal with. When, therefore, it was proposed that some executive action within certain limits should be tried to cope with the situation, several Members of this Council came to the conclusion that we should not stand in the way. And when the Bill came up before the Council we did not oppose it, and practically gave a sort of reluctant assent to the measure. If ever, therefore, there was a measure, which should have been enforced with care and caution, it was that Press Bill. Apart from the fact that a harsh enforcement of the measure was liable to turn the feeling of the people against Government, this special caution was due to those non-official Members who at a difficult time had come forward to range themselves on the side of Government. There was never any doubt about the intentions of the Government of India. We were assured, both in private conversations and in the speeches of Members of the Government in this Council, that the law would be applied only to extreme cases, that the past would be wiped off the slate, and that the measure would be enforced only in the case of new and serious offences. And in waiving our opposition to the measure, we permitted ourselves to believe that the remedy would be tried in that spirit. As soon, however, as the Bill was passed, Magistrates in all parts of the country started enforcing the provisions in the harshest manner, and the worst cases occurred, I am sorry to say, in my own province, Bombay. For the most paltry reasons, security came to be demanded, with the result that even thoughtful men, who deplored the excesses of the Press, turned violently against those who had stood by the Government in the matter. I know the Members of the Government were themselves distressed to see this abuse of the Press Act. Sir Herbert Risley, who had introduced the measure, had gone, but Sir Harold Stuart, the Home Secretary, was here. I had a talk with him in the matter, and I know he was deeply grieved that this harassing overzeal was being displayed by Magistrates, who were enforcing the letter and not the spirit of the law. The difficulty, my Lord, in such matters is that it is impossible to communicate properly on paper the intentions of the Government of India even to the Local Governments, and further, even if it is found possible to do so, these intentions do not travel beyond the Local Governments; and hundreds of Magistrates all over the country, who come to be armed with the powers conferred by the law, do not think of the intentions or do not know anything about them. When I went back to Bombay last March, after the session of this Council was over, I found that the position of some of us had become, owing to the abuses of the Press law, almost intolerable; and this not merely in the eyes of those who were in the habit of talking wildly, but even of those who wanted us to give a reasonable sort of support to the Government; so much so that I thought it necessary to ask for an interview with His Excellency the Governor of Bombay and lay the whole matter personally before him. Sir George Clarke entered into our feelings at once, and with that readiness which has always characterised him to look into grievances brought personally to his notice, he promised to set the matter right at once; and then orders were issued, which stopped the whole scandal.

"My Lord, the fear of such experience always weighs us down. We are quite willing to accept the statement of the intentions of the Government of India, as made known here. And we know that the Government of India has no other object in view than to put down the evils complained of. We know also that Local Governments will try to carry out those intentions to the best of their ability and as far as they understand them. But it is not the Government of India nor the Local Governments that ultimately exercise the powers; it is local officers, scattered all over the country; and these officers, according to individual idiosyncracies, will interpret the law and enforce it. The whole question, therefore, is not so much a question of legislation as of executive administration. It has often been said—it is really a mere truism—that more depends upon the manner in which a law is administered than upon the law itself. And in the executive administration of the country we have absolutely no voice. If, in enforcing this law, non-official men were first consulted by district authorities, if their advice was sought beforehand, then there would be some safeguard against an abuse of



these powers. If, for instance, district officers were to have round them district councils, as has often been suggested, and they were to put the powers of such law into force with the advice of the district councils, there would be some guarantee that no improper exercise or abuse of those powers, whether due to ignorance or excess of zeal, would occur. But as long as we have no opportunity of making our wishes known in the executive administration of the country, so long it becomes an exceedingly difficult matter for us to accept the responsibility which associating ourselves with the Government in such measures brings to us.

"My Lord, after a great deal of consideration, I have come to the conclusion that, while things are as they are to-day, our co-operation with the Government cannot ordinarily go beyond two classes of measures—constructive measures taken for the moral and material well-being of the people, and measures urgently and immediately necessary to deal with actual or threatened disturbances. I will illustrate my meaning by an analogy drawn from the question of military expenditure. If war or invasion were threatened, I think, whatever our views about military expenditure may be, we all should be willing to come forward and support the Government in any measures—even extra taxation—which the Government might consider necessary to cope effectively with the danger; but that is in an abnormal and extraordinary state of things. In normal conditions we should jealously scrutinise our military expenditure and urge the Government to keep it within reasonable limits. In the same manner, where an abnormal situation as regards the maintenance of law and order in the country arises, we should brush aside all ordinary considerations and come to the support of Government in any measures that are really necessary for putting down or preventing disorder. After all, we do not want any sedition in this country any more than the Government does. Our hopes for the future are bound up with the peaceful maintenance of British rule; and in all measures, reasonably necessary for the maintenance of that rule, and reasonably applied, the Government is entitled to our co-operation and support. But there is the difficulty which I have spoken of, where measures are taken as mere precautionary measures, not required by any immediate necessities, but simply to guard against possible developments in the future. And I have come to the conclusion that, in view of the possibility of abuse, we must leave the responsibility for such measures to the Government. I admit that, as the responsibility for peace and order is primarily with the Government, the judgment of the Government must prevail in the end in such matters; but as the Government has the power to enforce that judgment, whether in this Council or outside, we should not be expected ordinarily to assent to the exercise of that power, and no occasion for complaint arises if we prefer to stand aside.

"I will now say a few words on the Bill before us, and then resume my seat. I do not wish to go into the details of this measure. That has been done by many of my Hon'ble friends and I do not think anything has been left to be said on the subject. It is admitted freely that the Government has removed from the old Act its more objectionable features, and that, if an Act must be passed, the Government could not have made it milder. But I must urge again, what I urged at Simla in 1907 and what I also urged last year, that legislation in such matters should be passed in Provincial Councils and not in the Imperial Council. My Lord, I think it is unfair to everybody—unfair to the Government of India, unfair to the Members of this Council, unfair to the whole country—that such legislation should be passed here. The only justification for such measures is the prevalence of an exceptional state of things, and unless such a state of things is general throughout the country, a province which wants to be armed with exceptional powers should seek to pass the necessary legislation in its own Council. As most provinces possess their own Legislative Councils, there is no reason why the Government of India should ask this Council to accept a responsibility which should be borne by Local Councils. When the Government of India passes such legislation for the whole country, it gives rise to a feeling of general irritation, and the irritation is greatest in those provinces which need the special legislation the least

A province that is disturbed recognizes more or less the need for some measure of the kind; but the provinces that are in a normal condition feel that they have been badly treated. Moreover, it is impossible here, whether in Select Committee or in Council, to consider all the circumstances of the different provinces, whereas, if a province which needed these extraordinary powers were called upon to legislate for itself, the circumstances of that province would be discussed with full knowledge by Members, both official and non-official, before a final judgment is arrived at. It has been stated that all the Local Governments are in favour of placing this legislation permanently on the Statute-book. I do not think, however, that that goes far. No Local Government, or for the matter of that no authority, would like to relinquish the powers which it already enjoys. A clear illustration of this is furnished by what has happened in the Rhotak District in the Punjab. When the proclamation of Rhotak was about to expire, the Deputy Commissioner of Rhotak and the Commissioner of the Division strongly urged its renewal. The Lieutenant-Governor would not agree to that—at the same time he is unwilling to let this Act expire. Thus each authority wants to keep the powers which it possesses, and it is not strange that all Local Governments have expressed themselves in favour of the permanent retention of the Act.

“My Lord, if the Government had proposed to limit the duration of this measure to three, four or even five years, that would have considerably altered its character. It would then have meant that the Government wanted a temporary remedy for a state of things which it did not consider quite normal. If this had been done, it would have been easier for us not to stand in the way of this Bill passing into law. My Lord, if this measure were passed for five years, what would happen? I am quite sure that in five years things will so settle down that there will be no need for this measure. When this Act was first passed in 1907, Dr. Ghose and I pointed out that by itself it would not only prove no remedy for the state of things, but that it would drive discontent into more violent channels, and that what the situation needed was above all a large and generous measure of reform. And what we had prophesied actually came true; for in April 1908 the first outbreak of violence took place in the country. In November 1908 came the gracious message from the late King, the Proclamation of 1908, and it was followed soon after by the scheme of reform, which was announced by Lord Morley in his memorable speech of December 1908 in the House of Lords. The improvement in the situation of the country has been rapid since then, and further that improvement has been continuous; and, in spite of the two detestable outrages that have recently occurred, we all feel that, taking the country as a whole, the situation every day is improving and that it will not be long before the whole thing passes away like a hideous nightmare. That being our view of the situation, we feel, my Lord, that a temporary measure would have suited the requirements of the situation much better than a permanent measure of this kind. If, on the other hand, our estimate of the situation is found to be wrong at the end of four or five years, the Government has the power to renew the measure for a further period or indefinitely. There may be some little agitation to be faced, but that is a small consideration compared with the fact that, in placing this measure permanently on the Statute-book just now, the Government is going against a large volume of public opinion. My Lord, let not the Government be influenced too much by the latest outrages. They are like the dying embers of a fire that is going out. A number of young men came under unfortunate influences under circumstances over which I will not dwell, but the responsibility for which must be shared equally between the Government and the people. There is much truth in the adage that it takes two to make a quarrel. I am not, however, going into that; I only want to say that for three or four years a wave of wild teaching passed over the land, and under the influence of that teaching a number of youths completely lost their heads and committed themselves to courses of conduct from which retreat was not easy. I think it is some of these men who are still responsible for these outrages. There may be a few more outrages in the near future,—no one can say,—but no new additions to the ranks of these men are taking place; the supplies have been cut off;



and I feel quite sure that the situation will now grow better and better every day until at last only the memory of these times is left. I therefore urge, my Lord, that the Government should reconsider this matter even at this late stage, and limit the duration of the Bill to a period of three, or even five, years. If this is done, some of us, who are unable to assent to a permanent measure, may find ourselves in a position to reconsider the line which we have decided to adopt."

The Hon'ble MR. SYED ALI IMAM: "My Lord, the legislative measure which is before the Council deserves to be examined in the light of a comparison of its provisions with those of the Seditious Meetings Act of 1907. This process will lay bare the constitutional changes that have been introduced by Your Excellency's Government in a piece of legislation the utility of which, under circumstances of political danger, cannot be sufficiently appreciated. It will be conceded on all hands that these far-reaching changes are all in the direction of removing features that in the Act of 1907 were supposed to induce real or fancied alarm in the minds of such as have permitted themselves to be obsessed by abstractions rather than be guided by the statesmanship which addresses itself to a correct appreciation of the conditions existing in fact. It will be remembered that the notification under sub-section (2) of section 1 is a condition precedent to the exercise of the power under section 2. The former established only a correlation between the Government of India and Local Governments with regard to the operation of the Act, and does not impose any immediate curtailment of the right of the people to hold public meetings. The proclamation of a province or a part of it must be preceded by this notification that does not do more than make it only possible for Local Governments to apply the measure within their jurisdiction. I find it necessary to advert to it as, in the criticisms that have been offered from time to time on the action taken under the Act by Lord Minto's Government in January 1910, the point has been lost sight of, and it has been assumed that His Lordship's Government, by taking the action it did, deprived the whole of India of the right of holding meetings at one stroke of the pen. As a matter of fact it did no more than make it permissible for different Local Governments to apply the Act if an emergency arose. This action served as a gentle warning to put the disaffected and the wavering on their best behaviour without in the least trenching upon any rights of citizenship. Better informed and more circumspect critics, however, condemned that action on the ground of the impolicy of arming Local Governments with powers of such potency as the Act contains.

"My Lord, it is only a bare justice to the Local Governments concerned for this Council to remember that they fully justified the confidence the Government of India reposed in them. It is now more than a year since they were armed with this authority; yet, be it said to their credit, they have not put it into actual operation in any one single instance. My Lord, an advocate of decentralisation might find in the political sagacity and sobriety displayed by the Local Governments sufficient justification to ask for the continuance of the policy of giving them a free hand in this matter. But with a view to provide additional precautions and create greater security in the mind of the public, the Bill has subjected action of Local Governments under the two clauses of section 2 to the previous sanction of the Governor General in Council. The Bill, therefore, relieves Local Governments of the responsibility of applying its provisions to the whole or any part of their charge and places the discretion to accept or reject such a proposal in the hands of the Governor General in Council. Those who are acquainted with the constitution of the Government of India are aware of the immense safeguard this provides against an inconsiderate use of the power this Bill seeks to create. Many a pet project, cherished resolve and elaborately prepared scheme finds its grave in the deliberations of the Executive Council of the Viceroy. The restraining hand of the Central Government is a sufficient check on precipitancy, and is, I submit, entitled to inspire the Council with confidence that the exercise of the power the Bill is designed to create will be under the most exceptional circumstances of grave political necessity. When the Government of India has elected to take upon itself such responsibility, Hon'ble Members may well

be assured it has not done so in a light and sporting spirit, but in the solemnity and earnestness that are inseparable from authority of exceptional magnitude.

"But to proceed with the Bill. My Lord, as the Member of Your Excellency's Government who has to do with law and legislation, I may with pardonable pride point to the welcome advance this Bill has made on the Act of 1907 in maintaining intact a great and cardinal principle of English criminal jurisprudence. The presumption of innocence in favour of the accused is the basic principle of criminal administration of justice in India. The burden of proving the guilt lies on the prosecution. The Bill accepts the soundness of this hoary-headed and venerated juristical theory and has not therefore departed from the traditional orthodoxy of a great system of law. It was open to Government to justify such a departure on the plea that the Bill applies to exceptional places during an uncommon period of public disturbance. In Indian legislation there is precedence for shifting the burden of proof in exceptional circumstances from the prosecution to the defence. But Government has taken up in this Bill the loftier position of declining to claim any special treatment of Crown prosecutions under the proposed legislation. Some Hon'ble Members present here are practising lawyers of eminence. They will realise the importance and significance of this concession. In the conduct of criminal trials, as is well known, the mainstay of the defence is that the *onus probandi* is on the prosecution. Law Officers of the Crown are well aware how heavy a burden it is. It is an important factor in the considerations that determine initiations of proceedings. It is a powerful and vigorous check on irresponsible and indiscriminate prosecutions. Nothing short of a clear case where the doubt regarding conviction reaches vanishing point is allowed to go to trial. This is a safeguard the value of which cannot be too highly estimated in forming a correct judgment of the liberality of the Government view in this connection. Hon'ble Members will, I venture to think, agree with me when I say that the deletion of sub-section (3) of section 3 of the Seditious Meetings Act of 1907 from the present Bill has introduced a radical change in the very core and conception of the rationale that prompted the measure four years ago. Surely, my Lord, vague apprehensions, unworthy suspicions and nervous speculations regarding the possible misuse of power to convulse the country with doubtful Crown prosecutions need not any more lurk in the breasts of the champions of Indian liberty.

"But the Bill has further merit. The Act of 1907 places a political subject on the same level that is likely to cause disturbance or public excitement. The restrictions under sections 4 and 7 of the Act apply to both with equal force and rigour. My Lord, considering the Bill aims at grappling with conditions of abnormal difficulties in times of political stress and administrative emergency, it was reasonably open to Your Excellency's Government to follow the Act and refuse within a proclaimed area to recognise the distinction between a political subject and a subject that is likely to cause disturbance or public excitement. Yet the Bill that is before the Council has not, even among such lamentable surroundings as necessitate proclamation, trespassed upon the rights of free citizenship to hold meetings to discuss political subjects, so long as they do not lend themselves to disturbance or public excitement. The emancipation of peaceful public discussion on constitutional lines, of genuine and *bona fide* political subjects, from the limitations imposed by the Act of 1907, is an expression of the earnest desire of Government not to put a ban on the growth of healthy political activities in the country. Hon'ble Members will note, I hope, with satisfaction the courageous statesmanship that characterises this part of the Bill.

"But, my Lord, I have not yet come to the end of the benefactions. One more feature of striking contrast will I present. It is regarding the position of the police in this Bill. On the 6th of August of 1910, at Simla, when the Hon'ble Mr. Gokhale rose in this Council to oppose the continuance of the Seditious Meetings Act, he referred to the proclamation of an area as placing it under 'police rule'. We all know the Hon'ble Member is a great master of debate and dialectic. The unpopularity of the police furnished the Hon'ble Member with a theme that was rich in destructive criticism. The Hon'ble



Member then dwelt on the abuses to which the police would put the Act. My Lord, here again the Bill has so largely modified the provisions of the Act that, save and except a Commissioner of Police (and he is an officer of high standing), not a shred of power has been left in the hand of any member of that force, and although I listened to-day with attention to the excessively mild assertions, but yet very persuasive, of the Hon'ble Member opposite, I have failed to detect any good reason to show why, after the Bill has been accepted by this Council, by any manner of means it is possible again to apply the viciousness of the police to the discomfort of the people at large."

The Hon'ble MR. GOKHALE : " May I interrupt the Hon'ble Member ? On whom will the district authorities depend for their information ? "

The Hon'ble MR. SYED ALI IMAM : " That is a question that may well be answered in this way. If the district officer depends upon the police for his information, is it the Hon'ble Member's contention that he surrenders his judgment to his subordinates, and am I to understand that the leadership of the Opposition in this House is subject to the same principle, and that the learned and able Hon'ble Member opposite surrenders his judgment to those who supply him with information and has the same position in regard to subordinates as the police have in regard to the Magistrate ? I claim on behalf of the administration, my Lord, that the Magistrate never surrenders his judgment ; he receives information which he has to digest and he has to apply to it all the ability that he possesses and all the experience he has gathered in administration, and after that he decides as to whether he has to act on the information of the police or not. I submit, my Lord, in this Council I think that any Member should get up and put forward a wholesale denunciation of the administrative ability of the Civil Service, of which the District Magistrate is a member, on the ground that he sees with the eyes of the police, that he hears with the ears of the police, and that he does not use any discretion, is, I submit, a proposition that I was not prepared to hear from the high authority of the leader of the Opposition. It has disarmed all criticisms based on allegations of the wickedness of the police. The Bill, as considered by the Select Committee, makes an offence committed against the proposed legislation triable only by a Magistrate of the first class. My Lord, this is also a conspicuous advance made by the Bill, and I submit that if these various points that I have been placing before the Council are looked at by this assembly in a dispassionate manner, they will see that the Government has been approaching the subject, as it were, with all the tenderness of a mother towards a criminal who comes within the purview of this Act. It is not absolutely necessary that this Act is at all to apply to any part of India, and I trust it shall never be, and I hope my countrymen will make it impossible for us to apply this Bill ; but if they had, even in that case if an offence is committed, we have taken all these various precautions in order to secure into the mind of the Indian public the absolute safety which Your Excellency's Government is prepared to accord to the whole of India under even very great and difficult stress of political complications.

" Such are the solid and substantial alterations effected on the lines of liberal forbearance in a measure that has to meet the forces of sedition in this country. I should think, my Lord, Hon'ble Members will find on careful consideration that the Bill has real merit to commend itself to their acceptance and of all true lovers of law and order.

" It has been urged in the Press and insisted upon with untiring reiteration that the powers the authorities possess under the Indian Penal Code and the Procedure Code are sufficient to check the evil the Bill is intended to combat.

" My Lord, this I have heard before, this I have seen before in the papers, but I must confess that when lawyers of the eminence of the Hon'ble Babu Bhupendranath Basu and the Hon'ble Mr. Mazharul Haque—when these two Hon'ble Members put forward the same proposition, I do think it was time for me to point out, with great submission, that at least on this occasion they have not quite appreciated the provisions of the general law of the country. I venture to submit that reference to the Indian Penal Code in this connection is to express want of a proper appreciation of the scope of the Bill. The Indian

Penal Code, my Lord, is punitive. The Bill in its design and conception is preventive. It would therefore be just as well to put that Code out of consideration. Now, as to the Criminal Procedure Code. There is no question that some of its preventive sections are of great potency, but, my Lord, certainly section 107 was not the section that I thought the Hon'ble Member opposite would put forward in this assembly. I invite his attention (I have a copy of the Criminal Procedure Code here and can lend it to him) to have a look at that section and then say for himself whether he can possibly apply that section to a man in a proclaimed area, who intends to call a public meeting to hear a subject that may cause public excitement or the discussion of which may lead to a disturbance, and whether he can be got hold of under that section. Members opposite, who are great criminal lawyers—and they are all sitting in a bunch together—I leave it to them to say whether or not, during the practice they had at the bar, they do not recollect the beautiful and happy occasions when they have walked with triumph out of Court and got their man off on the sole plea that there was neither an overt act committed by the man nor that he was going to do anything that was unlawful. And I submit, my Lord, in this assembly, which represents the community so largely, such a generalisation should have been put forward to-day in regard to the application of the principles of criminal law in India, this generalisation—I put it with a great deal of submission and respect—is such that it should be at any rate reconsidered by Hon'ble Members opposite, inasmuch as if they went into a Court of law and put forward these propositions there, they would find their adversary on the other side make mince-meat of their argument. Now, my Lord, let us see the other sections. I quite admit that they are full of force, but, my Lord, I submit, however potent they may be, however strong they may be, the particular in which this Bill safeguards the safety of the people, in that particular they are absolutely inane, they are useless sections, and I shall show to the Council, I hope and trust, by a very small reference to these sections (as a Law Member it is one of my duties) that not one single section of the Criminal Procedure Code will be of any use if this Bill is not passed. Section 108 is effective for taking security for good behaviour from persons disseminating seditious matter. Section 144 is of great force to issue prompt and absolute order in urgent cases of nuisance or apprehended danger. Sections 127 to 132 are of remarkable efficacy for dispersing an unlawful assembly or an assembly likely to cause a disturbance of the public peace. Some of these, at least the last two, were not referred to by Hon'ble Members on the other side; but I thought that it was necessary in fairness to the complete appreciation of this question that I should put them forward, so that the Council may understand that our Criminal Procedure Code is of no use to us. Under normal conditions of the social and political life of a people, these sections are of genuine utility and much protective strength. Indeed, they are enacted and designed to cope with such ordinary distemper in the social organism as is inherent in human society. The peculiar feature of these sections is that they pre-suppose the possession of reliable information on the part of the authorities of the imminence of the evil they are to avert. This, to my mind, goes to the very root of the whole question. Section 44 of the Criminal Procedure Code lays the public under obligation to give information to the authorities of the intended commission of certain offences punishable under the Indian Penal Code. A reference to the offences enumerated in this section will show that its operation is extremely limited and does not touch even the fringe of the criminal tendency the eradication of which is aimed at by the Bill. Section 45 of the Code is equally insufficient. In fact, Chapter IV of the Code, which deals with the question of such information, is hopelessly inadequate to supply the legal obligation to apprise the authorities of the intended or proposed calling together of a meeting described in section 4 of the Bill. In this particular the general law of the land supplies no remedy; yet the preventive action of that law for the purposes under consideration is dependent on removing the want. The unhappy circumstances in which the proclamation of an area is unavoidable render the proposed legislation imperative and indispensable for the maintenance of public tranquillity and the prevention of the spread of revolutionary doctrines. The public weal is a sacred trust committed to the



legislative care of this Council. Hon'ble Members will agree with me that measures that are somewhat out of the common have to be applied to conditions that give cause for exceptional treatment. This is a truism that was accepted by the Hon'ble Mr. Gokhale in 1907. In this Council speech on the Seditious Meetings Act, he enhanced the brilliancy of his oration by a passage of remarkable force, though wanting in prophetic perspicuity. The Hon'ble Member said :

' My Lord, I can imagine circumstances of such extreme urgency and such extreme gravity as to necessitate the passing of a law of this kind, and passing it even in the manner the Government have adopted. Had there been an active and widespread movement of resistance to authority afoot in the country, if breaches of public peace had been frequent, if incitements to violence had been the order of the day, I can understand the executive wanting to arm themselves with these vast powers of coercion. But, my Lord, can any one truthfully say that such a state of things has arisen in the country? On the contrary, I assert, without fear of contradiction, that there is nothing in the circumstances of the land which constitutes even a distant approach to such a situation.'

" Since the 1st of November 1907, when the Hon'ble Member thus spoke, a great deal of water has run under the bridge. The dark and dismal shadow of sedition has fallen on the land. The religion of revolt, the gospel of political assassination, the preaching of violent doctrines, the growth of Nihilistic principles and the manifestation of anarchical crimes, have loomed large on the political horizon of India. I crave the Hon'ble Mr. Gokhale's indulgence to suffer me to quote him once more. On the 8th of February 1910, speaking on the Press Bill in this Council, the Hon'ble Member summed up the situation in that inimitable style of language and diction which has captured the admiration of all of us. Said the Hon'ble Member :

' It is not merely the assassinations that have taken place, or the conspiracies that have come to light, or the political dacoities that have been committed, that fill me with anxiety. The air in many places is still thick with ideas that are undoubtedly antagonistic to the unquestioned continuance of British rule, with which our hopes of a peaceful evolution are bound up; and this is a feature of the situation quite as serious as anything else.'

" Nobler words, my Lord, were never uttered. The exact position of the country was never summed up more ably than that day by the Hon'ble Member opposite. My Lord, the Hon'ble Member's pronouncements made in this Council bear the mark of that well-considered deliberation which we have learnt to associate with the leader of the Opposition. The question, therefore, is whether since last year when the Hon'ble Member spoke the situation has materially changed. Now, I admit that things move very fast in India, but I doubt very much if they have moved so fast as to permit the Hon'ble Member to appreciably depart from the position he took in February 1910. The Press Act, which the Hon'ble Member did not find justification to oppose, and the Bill before the Council are, if I may say so, intended to serve similar purposes under different conditions. While the former is to check seditious tendencies disseminated by the agency of the printing press, the latter is to restrain the propagation of revolutionary propaganda by the more dangerous methods of direct preaching. I shall show to the Council that if the Press Act is to be in existence in this country in its present form the permanency of which was not opposed by the Hon'ble Member opposite"—

The Hon'ble MR. GOKHALE : " I moved the amendment that the Press Act should be limited to a period of three years, but was defeated."

The Hon'ble MR. SYED ALI IMAM : " The Hon'ble Member was defeated and it was one of those tactics with which we are acquainted in Parliamentary warfare. The Hon'ble Member in his speech accepted the Bill, and I have a copy of the Hon'ble Member's report here, and, if necessary, I shall be able to quote from it. I have been all my life in the habit of carrying my authority with me. The Courts before whom I have plied my trade always had the bad habit of at once calling me up to prove my point by the production of the necessary authority, and I am in a position to quote my Hon'ble friend on the other side that when he put forward that amendment that was only an amendment that was put forward after the first delivery of his speech in which he said that he was not prepared to oppose the Bill. Now, therefore, I submit, my Lord, that if

the Press Bill, which was passed without opposition, and my Hon'ble friend on the other side thought the country was in want of a measure like that, I have only got to say that Your Lordship's Government has been exceedingly sober, if I may say so without impertinence, temperate, mild and merciful in framing the Bill as it has been framed by emasculating wholly the Act of 1907 in the manner in which it has been done. After this generous concession I did not think that there was any chance for the opposition that was given to the Bill. Now, my Lord, let us probe this matter further. The Press Act, which the Hon'ble Member did not find justification to oppose and the Bill before the Council are, if I may say so, intended to serve similar purposes under different conditions. While the former is to check seditious tendencies disseminated by the agency of the printing press, the latter is to restrain the propagation of revolutionary propaganda by the more dangerous agency of direct preaching.

"The hostility of the Vernacular Press to the Government was only the other day recognised by Hon'ble Members in this Council in the debate on a resolution moved by Hon'ble Babu Bhupendranath Basu in the present session. I think His Honour the Lieutenant-Governor of Bengal had some interest in that. The Hon'ble Mr. Mazharul Haque gave expression to his views on this subject in unveiled language, a characteristically refreshing style, if I may say so without impertinence. Said the Hon'ble Member:

'The evil is recognised by all thinking men of the country that the Vernacular Press is doing a great deal of mischief.'

"The Hon'ble Mr. Gokhale largely sympathised with the desire of Government to correct misrepresentations of their acts and intentions which appeared in the Vernacular Press, and also thought that the attitude of the Vernacular Press was deplorable at times. The Hon'ble Mr. Mudholkar helped the debate by saying:—

'I frankly admit that there are journals, and their number unfortunately at present is very large, who write in a spirit which is most deplorable and very reprehensible.'

"Several other similar pronouncements, all condemnatory of that Press, were made by other non-official Members. My Lord, the Press is held in some degree to reflect the attitude of the mind of the public. The Vernacular section, and according to Hon'ble Mr. Mudholkar, a large portion of that section, has persevered in its hostility in spite of the controlling influence of the Press Act.

"Now I must say, my Lord, in fairness to the position that the Government of India has taken up, that these statements—responsible statements made by Hon'ble Members here only the other day in regard to the position of the Vernacular Press—conclusively show, at any rate, that if the Executive Government has erred at all on any side, it has erred on the side of leniency and not on the side just now pointed out by the Hon'ble Member opposite—that the Press Act has been applied with a great deal of rigour. If the Press Act had been applied with a great deal of rigour, surely, my Lord, only two or three weeks ago in this Council Hon'ble Members would not have embarked upon that very frank and open, but the same time condemnatory, criticism which they offered on the Vernacular Press. Now the Vernacular section, according to the Hon'ble Mr. Mudholkar—a large portion of that section—has persevered in its hostility in spite of the controlling influence of the Press Act; in other words, it has gone as far as it was possible to go without drawing upon itself penalties under that Act. If that be so, my Lord, it is not an indication that weighs as an argument against the passing of the Bill that is before the Council. If only a year ago 'the air was in many places thick with ideas' subversive of the 'unquestioned continuance of British rule', we need some proof that the atmosphere has quite cleared and the sources of pollution exist no more. Whereas I hold to the belief that since the inauguration of the reforms things have been considerably on the mend, I am not prepared to accept that the situation in many parts of India is not without anxiety. Assassinations, bomb outrages, political dacoities are all of a programme of campaign of active sedition. They have been of late of less frequent occurrence,



but they have not unfortunately altogether disappeared from our midst. If sedition is lying low, it is by no means certain that it is not biding its time. We have evidence that it is encouraged and excited by organizations abroad. There is reason to believe that there are secret societies in conspiracy to make British rule impossible in India. Can it be supposed that these societies can hope to succeed without tampering with the loyalty of the people generally and seducing them from allegiance to our Sovereign? Their methods are well-known. These have been exposed in some of the political trials in our Law Courts. Their emissaries in the garb of teachers of religion, of social reformers, of learned pundits, of even jugglers and musicians, go forth in search of audience. When an audience is found, which is mostly composed of the simple folk of the country, meetings are held that ultimately furnish the recruiting ground. The blind fanatic, the ardent enthusiast and the impressionable youth fall easy victims to the wiles of these representatives of organised sedition. It is an evil which in time of danger the provisions of the Bill under consideration will effectively resist. True, Indian patriotism regards India's place in the British Empire as the only condition which ensures her a safe conduct on the path of progress and prosperity. Is it therefore too much to ask the support of the Indian Members of this Council to this Bill? I wish to acknowledge the appreciative standpoint from which such of these as were in the Select Committee approached the Bill. The Hon'ble Mr. Gokhale has not been able to reconcile himself to the permanency we propose to give to this measure. My Lord, as an Indian I can claim to realize the sentiments which have overpowered even the sterling statesmanship of the Hon'ble Member. The overwhelming sense of shame and humiliation in giving one's acquiescence to legislation that has been interpreted as a slur on the national character of one's countrymen is not unlikely to warp judgment. My Lord, I refuse to accept the proposition that the permanency will be a blot on, or reproach to, the good name of my country or countrymen. On the contrary, I assert that it will be the greatest condemnation that India's representatives can give to any suggestion that implies a doubt regarding her loyalty. My Lord, if the measure is made permanent, the chapter will be closed once for all. The energy of the Government and of the people will be no more wasted on recurring political excitement, and India will be saved from periodical legislative irritation. And after all is said and done, my Lord, what is the intrinsic value of this enactment if the Bill passes into law? We shall have created a weapon that will repose in the legal armoury unless and until the forces of sedition threaten to corrupt the allegiance of a particular area. No loyal and law-abiding Indian need be ashamed if this weapon is used under circumstances of grave peril to the best interests of the country. I trust, my Lord, my countrymen, who are Members of this Council, will not permit themselves to be swayed by a sentimentality which has its birth in a highly strung emotional temperament rather than a dispassionate examination in the cold light of reasoning. I support the Bill, my Lord."

The Hon'ble MR. SUBBA RAO: "My Lord, after the several speeches that have been delivered in connection with this Bill, I feel it my duty not to give a silent vote on this occasion. I have listened to the forcible speech delivered by the Hon'ble Law Member, and I am fully aware that important changes have been made in this Bill and that it has been made as mild as circumstances would admit. I fully realise the beneficent intentions of Government in recasting this Bill and removing some of the objections to the present Act. At the same time the main principles of the Act remain and must remain if it is to be of any potency whatsoever. The question before us is therefore, whether we should give our assent to this Bill as a permanent measure. I may mention in this connection that the Hon'ble Member in charge of the Bill has done a real service by allowing the reports received from various Provincial Governments to be circulated among the Members of the Council. They have given us an insight into the reasons that led to the introduction of this Bill. They show how delicate is the position of the Government of India in this matter. All the Local Governments with one voice have urged upon this Government to place this measure permanently on the Statute-book. And under the cir-

cumstances it is indeed very difficult for the Government of India to resist the request made by them. I must gratefully acknowledge that the Government have gone as far as they can to soften the harsh features of the present Act.

"It is said by the Hon'ble the Law Member that the present situation does still cause anxiety and that a measure of this kind is necessary. As far as I have been able to gather even from the reports of the Provincial Governments, it appears to me that the situation has very much quieted down and in fact the reason why they desire the re-enactment of the measure is that it might serve more as a reserve power in case there might be any trouble, not that the measure has any use at present. In view of what has fallen from the Hon'ble Law Member, I may take the liberty of quoting short extracts from these reports.

"The Government of Eastern Bengal and Assam states :

'A far better feeling now prevails, and His Honour very gladly recognizes the good sense and loyalty of the bulk of the educated classes, which have led to their emerging from the attitude of hostility and suspicion into which many of them were at one time led.'

"The Government of the Central Provinces says :

'The mere fact that its assailants have for the time being desisted from such assaults is no guarantee that they will never renew them.'

"Now coming to the Punjab :

'The Lieutenant-Governor admits that thanks to good harvests, the comparative absence of plague, the punishment of leading seditionists and probably the existence of the Act, sedition is now hardly heard of in the Punjab, and a steady and persistent attempt is being made by Government officers and responsible men of all sections to create a more loyal atmosphere all round. But it is impossible to say how long this happy state of affairs will last.'

"Turning to Bengal :

'He (the Lieutenant-Governor) fully and gladly admits that during the last year there has been considerable improvement in the tone of public sentiment, and he acknowledges the assistance which has been rendered by the leaders of moderate opinion towards attaining this satisfactory and happy condition. Before then it is decided to jettison the Seditious Meetings Act, it must be clearly recognized that Government has no assurance whatever that similar conditions will not recur.'

HIS EXCELLENCY THE PRESIDENT : "As all Hon'ble Members are in possession of these papers, I think it will be sufficient if the Hon'ble Member made no further quotations from them."

The Hon'ble MR. SUBBA RAO : "I accept Your Lordship's suggestion. It is the same with regard to other Governments. Thus it is practically admitted that the country has fairly quieted down and it is clear that the reason put forward for the re-enactment of a measure of this kind is that Local Governments should have this power in reserve against contingencies. Now, my Lord, if that is the correct position, the question is whether this measure should be made permanent. I should have been very pleased to hear if there were any legislation in any civilized country on the lines on which this legislation is proposed to be made permanent. I know that in some countries legislation of this kind was placed on the Statute-book temporarily from time to time as occasion arose, but to place it permanently on the Statute-book is a thing I am not aware of, and I shall be glad indeed if I am enlightened on the subject. It may be said that other Governments have administrative powers to meet emergencies. I respectfully submit that the Governor General in Council has also similar powers in reserve to meet emergencies in this country.

"My Lord, the Hon'ble Law Member have very well pointed out the important alterations which have been made in this Bill ; first of all, it is the Governor General in Council that must sanction the application of the Act to any particular area. I wish to associate myself with what has fallen from the Hon'ble Mr. Gokhale that after all it is the local authority on whose information the Government of India must to a large extent depend. That local officers are men of ability, men who want to do their duty, there can be no question ; but in times of panic or excitement it is quite natural and it is only human



that they could not always take a correct view of the situation. The Hon'ble Member has mentioned that there was a disturbance in Rajahmundry in the year 1907, apart from what is called the outbreak of the students in the Rajahmundry College. The Hon'ble Sir Harvey Adamson when he introduced the Bill in 1907 also referred to this disturbance and said that it necessitated the sending of troops there. My Lord, I may state, as one who knows intimately what took place in that part of the country, that there was as a matter of fact no disturbance whatever in Rajahmundry. It may be that there was an apprehension of a disturbance, though there was no reasonable ground for it. Troops were stationed there for a month or two: only there was no disturbance and they had no work to do. The only result was that sepoys were put to a great deal of inconvenience on account of rains, and it was a wonder to all why troops ever came to Rajahmundry and why they were quartered there. The Collector of the district at the time was one of the best officers we could have, well known for his calm judgment, tact and capacity, and yet he took a mistaken view of the situation and was apprehensive that there might be a disturbance. I give this as an illustration to show how local officers in times of panic or excitement might take a wrong view of the state of affairs which would only mislead the higher authorities. The abuses, therefore, the Act might lead to are not at all imaginary.

"Another point on which the Hon'ble Law Member has laid stress is that the police are entirely eliminated from the Bill. Well, in one sense they are eliminated. It is not the Inspector of Police who can depute his subordinates to go to a public meeting to take notes of the proceedings; the power is now proposed to be vested in the District Magistrate or a Magistrate of the first class to depute a police-officer, not below the rank of a head constable. The police, therefore, do come in after all under the present Bill. I do not wish, my Lord, to be hard on the police. I shall give only one instance that occurred a few months ago when there was absolutely no trouble whatever. A Bengali gentleman came to Rajahmundry; a lecture was arranged for him, and that lecture was upon a subject connected with social reform. A police sub-inspector attended the proceedings. A local gentleman of standing was chosen as the president on the occasion and things passed off quietly as usual. Some days afterwards this gentleman received a letter from the District Collector enquiring how it was that, when he presided at the meeting, he allowed so much sedition to be talked about. He was naturally surprised and explained to the Collector the real facts of the case. Some time after this gentleman met the sub-inspector and asked him if there was any sedition spoken at that meeting. 'No', was the prompt reply. 'But why did you report that there was sedition?' 'I thought there was something like it.' My Lord, the police may be very good people, but their work is judged and their promotion is regulated according to certain standards; and naturally, as the Hon'ble Mr. Gokhale has said, they are more feared than trusted. I think these two instances which I have cited go to show that it cannot be said that the provisions of the Bill would not be liable to abuse. Whatever may be the safeguards that are taken in enacting such a measure, after all it is the local officers that have to administer it. It is truly said, my Lord, that we should be jealous of excessive powers being given to the executive, and I submit that such powers as are proposed in the Bill should not be given permanently to the executive. It is quite a different matter if these powers are given temporarily under exceptional circumstances. I regret, my Lord, that, though I have given anxious consideration, I am unable to give my support to this measure."

The Hon'ble MR. JENKINS: "My Lord, the speech of the Hon'ble the Law Member and the ample and very able support which has been accorded to the Bill by a great part of the non-official Members of the Council, combined with the time of day, absolve me from the task of making any reply. I would merely say that the course of the debate in Council has fully justified our decision to introduce this Bill, and our resolve to make the legislation permanent."

The motion was put and agreed to.

The Hon'ble RAJA OF DIGHA PATIA : " My Lord, in moving the amendment that stands in my name, namely, that the words ' sufficient to bring on a breach of the peace ' be added after the word ' excitement ' in section 4, clause (1), of the Bill, I beg to point out that unless such a safeguard is provided for, meetings of even social and non-political character may be proscribed under this section, as practically 90 per cent. of meetings have some subject or other likely to cause excitement, such as child marriage, widow re-marriage, taking sacred thread by some sections, and even such a harmless subject as primary education. Such being the wide scope of the present section, I think the restriction proposed in the amendment would meet with the requirements of the Government, without in any way interfering with such ordinary and commonplace discussions as I have already pointed out."

The Hon'ble MR. JENKINS : " My Lord, I regret that we are unable to accept this amendment. If the words ' sufficient to bring on a breach of the peace ' are intended to be read with both the phrases ' to cause disturbance ' and ' public excitement ', there would be a difficulty. ' To cause disturbance sufficient to bring on a breach of the peace ' is meaningless. If, on the other hand, the amendment is confined to ' public excitement ', it would be difficult for any Magistrate to say whether the excitement was sufficient to bring on a breach of the peace until a breach of the peace had actually occurred."

The amendment was withdrawn.

The Hon'ble MR. MUDHOLKAR : " My Lord, I beg to move that in clause 7 of the Bill as amended by the Select Committee, the following words be omitted, namely :—

' without the permission in writing of the Magistrate of the district or the Commissioner of Police, as the case may be, previously obtained.'

" My Lord, I would say only a few words to explain the necessity of this amendment. In section 4 Hon'ble Members will find that the wording is :—

' No public meeting for the furtherance or discussion of any subject likely to cause disturbance or public excitement or for the exhibition or distribution of any writing or printed matter relating to any such subject shall be held in any proclaimed area—

(a) unless written notice of the intention to hold such meeting has been given to the District Magistrate or the Commissioner of Police, as the case may be, at least three days previously ; or

(b) unless permission to hold such meeting has been obtained in writing from the District Magistrate or the Commissioner of Police, as the case may be.'

" What section 4 thus requires is that notice should be given, or permission should be obtained. Possibly the Bill regards the permission requirement with preference. It, however, lays down that, at any rate, notice should be given to the District Magistrate or the Commissioner of Police before a meeting of the kind described in section 4 should be allowed to be held. Now, if a man wants to hold a meeting, say in connection with the discussion of the Financial Statement, and the meeting is announced to be held in the Town Hall of a place in a proclaimed area, and he has given notice of it to the District Magistrate, of which the District Magistrate has taken no notice and has given him no reply in regard thereto, if he goes on and holds the meeting, the result under section 7 would be that though he would have complied with the requirements of section 4 by giving notice, he is liable to be arrested by any police-officer without warrant. In other words, though section 4 has been modified, section 7 would take away much of the beneficial results which are intended to be secured by the omission of the words ' public meeting.' As the previous portion of the section complies with the real requirements of the situation, and the words ' otherwise than at a public meeting held in accordance with, or exempted from, the provisions of section 4,' secure all that is necessary according to section 4 being done, the additional requirement about the permission of the District Magistrate or Commissioner of Police laid down by section 7 is not only unnecessary, but is opposed to the object of section 4. Therefore, I put it



to the Hon'ble Mover and to the Government whether those words should not be taken out."

The Hon'ble Mr. JENKINS: "I would point out, my Lord, that the provisions of section 7 are perfectly distinct and stand by themselves. They deal with meetings of a particular class, and of a particularly dangerous class, with regard to which it is necessary to have such provision. They deal with meetings in public places and in places of public resort; and for that reason it has been provided that if, in a proclaimed area, a man wishes to hold a meeting in places of that kind, he must have the permission in writing of the District Magistrate. I am afraid I cannot accept the amendment."

His Excellency THE PRESIDENT (*to the Hon'ble Mr. Mudholkar*): "Do you withdraw your amendment?"

The Hon'ble Mr. MUDHOLKAR: "I am sorry I cannot withdraw it."

The amendment was put and negatived.

The Hon'ble RAJA of DIGHAPATIA: "My Lord, in connection with the amendment on section 7 of the Bill that stands in my name, I beg to observe that the power of arresting without warrant is too great a power in the hands of ordinary police-officers, such as common constables. As some of the men are not expected to understand the drift and subject-matter of many speeches, the power is likely to be abused in many instances, and as a safeguard against any such abuse I humbly submit that warrants should be provided for in every such case and that they should be issued by a Magistrate either in charge of a district or holding first class power.

"I find the drift of this Bill is to take away certain powers from the police and to vest them either in the District Magistrate or the Commissioner of Police, and, this being so, I venture to suggest this amendment, as I would be quite in a line with the policy of conciliation underlying this measure in its present shape. I can say that this little change will go a long way to make this Bill more acceptable to the public.

"No doubt in the interior it may at times be difficult to arrest an offending speaker if a warrant has to be procured before arrest, but at the same time it is more in the interior that the power of arresting without warrant is likely to be abused.

"With these observations, I beg to move the amendment that in the place of 'without warrant' the words 'under a warrant issued by a District Magistrate or a Magistrate of the First Class' be substituted."

The Hon'ble Mr. JENKINS: "My Lord, the amendment proposed by the Hon'ble Member would reduce this clause to a nullity. We are to suppose that a meeting, perhaps several meetings are going on in contravention of the law in public places or in places of public resort; the police come upon them and find they are being held. Now, if the Hon'ble Member's amendment is adopted, before the police can touch them, they must run off to the District Magistrate, who may be twenty or thirty miles off, and obtain a warrant of arrest, and in such circumstances it is evident that meetings of that kind might be held with perfect impunity. The Hon'ble Member's arguments that a policeman might arrest wrongfully is met by the statement that policemen do sometimes arrest wrongfully, and they have to take the consequences. The amendment cannot be accepted."

The amendment was withdrawn.

The Hon'ble MAULVI SYED SHAMS-UL-HUDA: "My Lord, the amendment which stands in my name is this, that after clause 7 of the Bill, as amended by the Select Committee, the following be added:—

"8. The provisions of Chapter XXII of the Code of Criminal Procedure, 1898, shall not apply to the trial of any offence under this Act;"

and that clause 8 be renumbered as 9.

"My Lord, the provisions of Chapter XXII relate to summary trials. There

can be no doubt that summary trials are unsatisfactory from the point of view of an accused person, because, in the first place, in such trials the Magistrate is not bound ordinarily, unless he makes up his mind to pass an appealable sentence, to make even a note of the evidence; he is not bound to write a judgment; he has only to fill up a few particulars: and the adoption of that procedure stands in the way of an accused person invoking the revisional jurisdiction of a superior Court, because in such cases there exist no materials upon which such jurisdiction can be exercised. I am sure, my Lord, it is the desire of Your Excellency's Government that men who are brought up for trial under this special enactment should not have any cause of complaint and that they should have no grievance. We cannot, my Lord, conceal from ourselves the fact that these trials will elicit a certain amount of public attention, that a trial under this special enactment will be watched, that it will be noticed in the newspapers; and I think it will be satisfactory, both from the point of view of the Government and of the public, that the facts of these cases should be fully known, so that the public may not have an idea that there is any attempt on the part of Government to shut out justice. It is from this point of view, and having regard to the fact that a measure of this kind will always be more or less unpopular, I think it would greatly improve the situation, if the amendment is accepted. I need only add, my Lord, that not only is there no record of the evidence, but in a summary trial the right of appeal is also restricted."

The Hon'ble MR. MAZHARUL HAQUE: "My Lord, I have great pleasure in supporting the amendment of my friend, the Hon'ble Maulvi Shams-ul Huda. All those lawyers who have any knowledge of criminal trials in this country will agree with me that a trial in the regular course is a much better trial than by a summary procedure. We have got experience of these summary trials, and it is difficult to say that justice is always done by this procedure. The cases which will come up under the special law will be cases of some importance, and, in my humble opinion, Magistrates should not be given the power of trying these cases summarily. With these few remarks I support the amendment."

The Hon'ble MR. SACHIDANANDA SINHA: "My Lord, I desire to support this amendment and I hope the Hon'ble the Home Member will be pleased to accept it. It does not affect any of the provisions of this Bill so far as the substantive law embodied in it is concerned. It merely relates to the question of procedure to be adopted in the trial of cases under the Act, and it is clearly desirable that such trials should be in a regular form, regard being had to the public interest involved. I therefore support the amendment that summary procedure should not be applicable to trials under this Act."

The Hon'ble MR. JENKINS: "My Lord, this amendment was fully considered in Select Committee and we decided not to adopt it. It is true that a Magistrate possessing summary powers may try a case under this Act in a summary manner, but we, who have been Magistrates, know perfectly well that the Appellate Courts regard with great jealousy the records in summary trials where any intricate points are involved. The consequence is that Magistrates invariably safeguard themselves against appeal by preserving a very full record in cases which they judge summarily, although they are not obliged to maintain that record. There was a very general opinion in Select Committee that that was quite sufficient and we ought not to depart from the ordinary provisions of the law. In these circumstances I regret that I am unable to accept the amendment."

The amendment was put and negatived.

The Hon'ble MR. MUDHOLKAR: "My Lord, I beg to move that the following clause be added to the Bill as amended by the Select Committee:—

'8. This Act shall continue in force till the 31st of March 1914.'

"My Lord, I should be very sorry to detain the Council at this time of the day with any remarks of mine, and it was my intention to move this amend-

ment formally without addressing one word in regard to it; but observations have been made which render it my duty to speak at some length on this motion, and I must ask Your Excellency's indulgence for it.

" I fully appreciate, in fact I myself pointed out long before the eloquent and fervid address which was delivered to us by the Hon'ble the Law Member, that this Bill is an undoubted improvement over the old Act. That was, my Lord, why we are all so ready to accept it for a period of three years or even for a period of five years. Had we known that it was to be a continuance of the old Act in all its harshness, it would have been our duty to oppose it to the best of our power. Thus our readiness to accept it for a period of three or five years is in full recognition of the fact that very important alterations and improvements had been made under Your Lordship's auspices in the old measure. My Lord, that matter did not require the elaborate and erudite treatment which was given to it. Everything which was pointed out with such emphasis was admitted in a simpler manner by much humbler men. My Lord, it was certainly utterly uncalled for that those who could not go with the measure completely should be called or regarded as belonging to the Opposition. My Lord, that is not a description which should be applied to persons who hold as loyal and as respectful sentiments towards the Government as any Member who is in complete accord with every word of the Bill and who accepts it without qualifications. My Lord, because we cannot accept the Bill in its entirety, it is not just or fair to characterise us as persons who constitute the Opposition. I believe in this Council there are no such parties as the Government party and the Opposition party. I hope the time will not come when Members of the Government will be inclined to consider persons who offer criticisms according to their best lights and with the utmost *bonâ fide* motives as persons who constitute the Opposition. It is also necessary to emphatically repudiate the statement that those persons who do not accept all that is stated by the advocates of the measure must be branded as men who are wanting in loyalty. The insinuation that loyal men have nothing to fear from such things is, my Lord, an unworthy slur upon us. However, those are matters which I am sure can have absolutely no weight with Your Lordship and with the Members of the Government. My only regret is that an important Member of the Government should have thought it proper to call us members of the Opposition. My Lord, coming to the provisions of the Bill, the Hon'ble Member pointed out that the Code of Criminal Procedure was not sufficiently powerful to give effect to the measure—to bring about all the results which are aimed at by this Bill. In regard to this I will only point out that the whole question was gone into in this very Council at considerable length in August last when I dealt with it in the speech which I had to make on the Continuation Bill. My Lord, advantage has been taken of what was evidently a slip of the tongue of my Hon'ble friend Babu Bhupendranath Basu and his ignorance has been exposed and ridiculed. If, instead of saying section 107 of the Criminal Procedure Code, he had only said section 108, he would have been on perfectly safe ground. The eminent lawyer who exposed his 'ignorance' should have seen that the Hon'ble Mr. Bhupendra spoke of the security sections in regard to persons doing a thing calculated to promote sedition. My learned friend the Hon'ble Babu Bhupendranath Basu's reference to section 107 was thus only a slip of the tongue. Then, my Lord, there is Chapter VIII of the Criminal Procedure Code. I do not wish to delay the Council by reading this. The Criminal Procedure Code confers extensive and full powers on certain Magistrates for preventing an assembly under section 144, for dispersing an assembly, for calling in the aid of private citizens, for calling out the military, and for taking any other suitable action. Before ignorance of criminal law is attributed to us I would ask the eminent gentleman to say what mistake there is in the description of the law given here by me. However, my Lord, I do not wish to tire the Council with repeating what had been said before. All I wish to do is to make an earnest appeal to Your Lordship as to whether it is not feasible to give at present only a limited duration to this Bill. We are willing to go with the Government to that extent, and are willing to give our adhesion on the ground that this is an exceptional measure which is required by exceptional circumstances, and as these exceptional circumstances



have not yet ended, we are willing that they might be continued for some time, and it is in that spirit, my Lord, that this amendment is moved."

The Hon'ble MR. GOKHALE : " My Lord, I beg to support this amendment."

The Hon'ble MR. JENKINS : " My Lord, the whole question of the permanent or temporary character of this Bill was very fully discussed in the general debate upon the motion that the Report of the Select Committee should be taken into consideration, and I feel that I should be occupying the time of this Council unjustifiably if I now spoke upon it. All that was said upon the subject must be fresh in the minds of all the Members of the Council and they have had ample material upon which to form their judgment. I regret that I cannot accept the amendment."

The Council divided :

*Ayes—14.*

Pandit Madan Mohan Malaviya ; Maulvi Shams-ul-Huda ; Raja Pramada Nath Roy of Dighapatia ; Mr. Ghuznavi ; Babu Bhupendranath Basu ; Mr. Sachchidananda Sinha ; Mr. Mazharul Haque ; Mr. Jinnah ; Nawab Saiyid Muhammad Sahib Bahadur ; Mr. Subba Rao ; Sir Ghulam Muhammad Ali, Prince of Arcot ; Mr. Gokhale ; Mr. Mudholkar ; and Sir Vithaldas Thackersey.

*Noes—50.*

The Lieutenant-Governor of Bengal ; the Commander-in-Chief ; Mr. Jenkins ; Mr. Carlyle ; Mr. Butler ; Mr. Syed Ali Imam ; Mr. Clark ; Sir Guy Fleetwood Wilson ; Major General Grover ; Mr. Earle ; Mr. MacLagan ; Mr. Jacob ; Mr. Porter ; Mr. Robertson ; Mr. Brunyate ; Sir Henry McMahon ; Nawab Abdul Majid ; Raja Partab Bahadur Singh of Partabgarh ; Mr. Le Mesurier ; Mr. Holms ; Mr. Meston ; Mr. Fremantle ; Mr. Todhunter ; Surgeon General Lukis ; Mr. Graves ; Mr. Macpherson ; Mr. Sharp ; Mr. Andrew ; Mr. Quin ; Mr. Birkmyre ; Mr. Madge ; Mr. Graham ; Mr. Monteath ; Sir Sassoon David ; Mr. Chitnavis ; Mr. Phillips ; Mr. Dadabhoy ; Mr. Gates ; Maung Bah Too ; Lieutenant Malik Umar Hayat Khan ; Sir Ranbir Singh of Patiala ; Sardar Partab Singh ; Lieutenant-Colonel Davies ; Mr. Slacke ; Mr. Stewart-Wilson ; Mr. Dempster ; Mir Allah Bakhsh Khan ; Sir T. R. Wynne ; Mr. Kenrick ; and Mr. Kesteven.

So the amendment was negatived.

The Hon'ble MR. JENKINS moved the Bill, as amended, be passed.

The Hon'ble MR. GOKHALE : " My Lord, before this motion is put to the vote I would like to make a few observations that have been rendered necessary by certain remarks which have fallen from my Hon'ble friend Mr. Ali Imam in the course of the somewhat exuberant support that he gave to this Bill. My Hon'ble friend marched through his speech, brandishing his sword high over his head, and dealing blows right and left at all and sundry, without considering whether they were really needed. However, I do not wish to refer to these attacks. But I feel I must remove some misapprehensions which are likely to be caused by what the Hon'ble Member has said with reference to my position last year over the Press Bill and my position to-day over the Seditious Meetings Bill. Before doing that, however, I hope my Hon'ble friend will let me remind him gently—and in this my Hon'ble friend Mr. Mudholkar has already anticipated me—that the word 'Opposition' is really not applicable to non-official Members sitting in this Council. I know that my Hon'ble friend meant to be complimentary when he spoke of me as the 'leader of the Opposition,' but we are far away yet from the time when the Government Members will exchange places with private Members in this Council, and until that time comes there can be no regular Opposition here, as the term is understood in Western countries. As a matter of fact, we support the Government here more often than we oppose it ;

and if, on any occasion, we have to differ, it is simply owing to our conscientious conviction that the view of the Government is not correct. I hope, therefore, that this description will not again be applied to us in future. My Lord, it was unfortunate that the Hon'ble Member had made up his mind as to what he was going to say before he had heard my speech; and therefore though I explained—I hope clearly—the difference between my attitude towards the Press Bill of last year and my position this year as regards the Seditious Meetings Bill, the Hon'ble Member did not take note of that explanation. My Lord, the Hon'ble Member was not fair to me when he said that last year I supported the Press Bill, though it was a permanent measure. In my minute of dissent appended to the Select Committee's Report, in the speech which I made when the Report of the Select Committee came up for consideration in this Council, and finally when amendments were moved,—at all stages I most strongly urged that the Bill should be limited to three years only. I may further state that, even as regards the Press Bill, I never said that I *supported* the Bill. All I said was that I did not feel justified in opposing the Bill. These were the precise words I used :—‘ That in view of the situation that exists in several parts of the country, I have reluctantly come to the conclusion that I should not be justified in opposing the principle of this Bill.’ I pointed out throughout the risks of that law, and I urged again and again that it was of the utmost importance that it should be temporary. Finally, when the time for moving amendments came, I moved an amendment that the law should be limited to three years: and I may mention that up to the last moment—and I think this is within the knowledge of many Hon'ble Members who were then present—there was some uncertainty as to whether the Government would or would not accept the proposal; and as a matter of fact, before my amendment was put to the vote and lost, the Hon'ble Sir Herbert Risley, who was in charge of the Bill, went up to the Viceroy, and asked him before us all if he was to accept the amendment; thus up to the last moment there was a chance of our proposal being accepted, and we were influenced in our attitude largely by that hope. However, that, my Lord, is a small matter. The real difference between that Press Bill and this Seditious Meetings Bill, which the Hon'ble Member does not seem to realize, is this—under the Press Bill, only the man who actually writes takes the consequences. If a writer exercises reasonable care, keeps himself within certain limits, and writes with due restraint, there would probably be no trouble in his case. But under the Seditious Meetings Bill, while one or two men may make wild speeches in an area, once the area is proclaimed, all the people in that area are placed indiscriminately under the ban. And in fact the less objectionable a man's opinions are, the more he is sure to feel the hardship of this law. Take the place from which I come—Poona. Suppose there are some wild speeches made there, as may happen on any day, and Poona is proclaimed under this law; what happens? The men who will have brought down this on Poona will probably keep quiet, but all the rest of us, who are pursuing our ordinary activities, shall find ourselves placed under this new law, having to give notice of every meeting that we hold, having to obtain permission beforehand in certain cases, and being liable on occasions to be charged with holding meetings surreptitiously. My Lord, the Hon'ble Member is now a Member of the Government, but he comes from the mufassal and has had personal experience of the mufassal in the past, and he should know that in the mufassal fear of what the police may do is very real. I came from Poona, a mufassal place in the Bombay Presidency, and I can assure the Council that we have very real fear that the police might cause trouble without cause. I have got that fear myself and everybody whom I know has got that fear, and I think it is only fair that the Government should know that this fear is entertained. My Lord, the Hon'ble Member says that this law keeps the police out. When I asked him on whose information the District Magistrate would act, he interpreted my suggestion as if it was a wholesale denunciation of the Civil Service! Nothing, however, was further from my mind. He himself must feel that it was not a fair interpretation to put upon my words, because I had taken care in my speech not to give room for such an interpretation. I had said that the district authorities were, like similar bodies of men, composed of persons, many of them

average, some exceptional ; and therefore my query could not be construed as a denunciation of the whole Civil Service. My Lord, the police are not out of this Bill. The District Magistrate will act—indeed must act—on the confidential reports that he receives from the Criminal Investigation Department and other Police-officers. You may say that he will examine these reports carefully and try to arrive at an impartial judgment. He may do so, but mistakes will take place as they have taken place in the past. You cannot avoid making mistakes in such positions. Last year, when certain District Conferences were stopped in Eastern Bengal, when even a meeting of the depressed class was prohibited, what was the justification? In my humble opinion, these prohibitions were undoubted abuses of the powers under this Act. I do not know what view the Hon'ble Member holds about those orders, but these things are likely to happen again in proclaimed areas. My Lord, my Hon'ble friend quoted from a description which I gave last year of the state of the country, when I said that I did not want to stand in the way of the Government trying the remedy of executive action in regard to the writings in a section of the Press. But, my Lord, the Hon'ble Member ignores the difference between the Press and the Platform. In the Press, a man can do mischief from day to day without being noticed. Who is going to notice ordinary writings, unless there is something sensational to attract attention? But you cannot hold seditious meetings without attracting the attention of all. The Press and the Platform, therefore, as instruments of sedition, do not stand on the same level. Apart from that, however, the position last year was undoubtedly different from what it is to-day. I have already stated in my observations on this Bill that after the introduction of reforms in December 1908 a rapid improvement began : those who have had experience of the time before and after, will, I feel sure, corroborate what I say. The Press Bill, however, came up within less than two months after the introduction of the reforms, and much time had not elapsed for things to settle down. And when I spoke of the state of certain parts of the country at that time, I did feel that the air was charged in many places with anti-English ideas, and I did say that it was necessary in our own interests that it should be cleared of those ideas. And that was why I did not want to stand in the way of the Press Bill being tried. But, my Lord, the situation has vastly improved since then, and were it not for the two recent, miserable outrages, I am quite sure there would have been but one opinion even in this Council, that there was no comparison between the state of things a year ago and to-day. These outrages, however, should not be allowed unduly to influence the mind of the Government. In any case that is my view, and I respectfully submit it to the consideration of the Council."

The Hon'ble MR. SYED ALI IMAM : " I crave Your Lordship's permission to say a few words on this motion. My Lord, I have pretty largely felt the justice of the misunderstood reference in my submissions to-day about the position of the leader of the Opposition. Specially, I find that I owe as it were an explanation to the Council as to what I meant. That explanation has been given in a very clear language by my Hon'ble friend Mr. Gokhale. I could not have possibly suggested it for a second that the 'Opposition' indicated anything in it that was reprehensible. On the other hand, I have always felt that those who do so, do so absolutely in a friendly way and absolutely consistent with their conviction, and there was not the slightest suggestion in my address that the 'leader of the Opposition' should have been misunderstood in the way in which Mr. Mudholkar was pleased to take it. So I emphasise that I meant only what the Hon'ble Member was good enough to suggest was my meaning, that is to say, in a complimentary sense. In regard to this question of making it permanent, I think a reference to the Press Act was made by me only because of that passage which was just now put to the Council by the Hon'ble Mr. Gokhale, and there is not the slightest doubt that he fought very hard in the course of the debate on that occasion to give the Press Act only a temporary life ; but on the contrary the passage that he has done me the honour to quote to-day clearly says that the Hon'ble Mr. Gokhale on that day did not find his way to oppose the principles of that Bill, and one of the principles of that



Bill was the question of permanency. I hope that the Council will not remain under the mistaken impression that at that time Mr. Gokhale did not adopt two positions in regard to that Bill. As to the question, my Lord, of permanency, I have only to place one consideration. It is this that if the Press Act is enforced as it is at present, the result is that those ideas with which the air last year was thick cannot find possibly expression through the printing press, because that has been all stopped. More the reason, therefore, I submit, my Lord, that the Council should consider as to whether or not we should check the only possible way left for these ideas to float into the country, *viz.*, by the holding of meetings. We all hope and trust that the good sense of the country will prevent meetings to be held for purposes that would lead to any spread of these ideas, but the question is that the country as it stands has a right to expect from the Government some kind of assurance that if such meetings were held that these meetings will be effectively dealt with. And therefore, my Lord, I support the motion."

The Hon'ble MR. MAZHARUL HAQUE: "My Lord, I want to say just a few words. My lifelong friend, the Hon'ble the Law Member, has invited me to a forensic combat as regards the adequacy or otherwise of the preventive measures of the Criminal Procedure Code. Well, my Lord, if this Council were a Court of Justice, I would have gladly accepted his challenge, and no doubt I would have won my case too; but as this is not a Court of Justice,—it is a Council Chamber,—I refuse, with the greatest respect to him, to accept his challenge. However, I must complain of one thing, my Lord, and that is that my Hon'ble friend was not quite just to me when he said that I opposed the Bill absolutely. He did not appreciate my grateful acknowledgments to Your Excellency as regards the mildness of the measure. I said in the strongest and clearest terms possible that the most objectionable features of the present Act had been taken away by the Bill, and I gave my respectful thanks to Your Excellency for this generous concession to the people of the country. But, my Lord, consistently with my conscience and with my duty to the country, I could not accept the principle which is laid down in this Bill, and I still do not accept it in spite of the eloquent address of my Hon'ble friend."

The Hon'ble BABU BHUPENDRANATH BASU: "With Your Lordship's leave I shall say only a few words on this motion. A pointed reference was made to me by the Hon'ble Law Member as regards the particular section of the Criminal Procedure Code which I had quoted as enabling Magistrates to take preventive action. I frankly confess, my Lord, that I have had but little to do with criminals, and I must bow to the superior knowledge of my Hon'ble friend who, it will be no exaggeration on my part to say, has spent all his life amongst crime and criminals; but at the same time what I have thought to indicate is this, that section 107 is a section which I have known to be invoked, and invoked successfully. The accused persons probably in those cases had not the means of enlisting on their side the advocacy of my learned friend, for if they could probably they would have got off; but as a matter of fact, they did not. However, my Lord, that is a small matter. But I think I was not a little surprised at the vehemence which the learned Law Member displayed in dealing with the subject-matter to-day. We have been accustomed in this Council, so far as the Government Members are concerned, to an air of detachment, of personal detachment. That is an attitude, my Lord, which commends itself to us, to me in particular. We children of the tropics, who are moved to warmth upon occasions, when in our cooler moments we should not probably have done so, realise with appreciation the air of cool and collected detachment which the Government officials display when they deal with matters which vitally concern them as well as ourselves. I think, my Lord, that is an advantage in debate in this Council. While, on the other hand, we, my Lord, born in this country, 'lulled by the languor of the land of the lotus,' we sometimes feel that a little ruffling of the surface probably would be desirable, and that has been our experience this afternoon. I was suddenly reminded of that famous Knight of Spain who was going after imaginary cavaliers, when my friend laid about right and left against opponents

who never were and against arguments which had never been advanced. But that is a small matter. I almost felt that Kant's theory, following Plato and the Upanishads, that the external world had no real existence was after all true and the learned Law Member thumping down the points of his speech with an emphasis all his own was the creation of my disturbed imagination. I, Sir, sitting in this Council Hall, felt as if I was transferred to the Court of a Deputy Magistrate in the mufassal where learned Counsel come down and flourish books which they carry in their arms, as containing precedents which cannot be controverted. I have known that game much too long to be overawed by it, and my friend the Hon'ble Mr. Gokhale has shown that the precedents which the Law Member has so valorously flourished in our face—supposed quotations from my friend's speech—after all did not support him; but I shall stop here. I shall only pray that our debates may be conducted with as little heat as possible and with as much dignity as possible."

His Excellency THE PRESIDENT :—" It will probably be within the memory of Hon'ble Members that my predecessor Lord Minto, in a speech made in Council in Simla in August last, gave his reason for the temporary re-enactment of the Seditious Meetings Act for a period of six months only, that he did not wish to commit his successor to a policy of which he had not had sufficient opportunity of judging and of which he might possibly not approve. I feel, therefore, that in view of the fact that I have been brought in personally into the discussion of this very important question, that it is incumbent upon me, on this occasion, to say a few words on the subject. In the first place, let me say that I am grateful to Lord Minto for his consideration in having given me an opportunity to take stock of the whole state of affairs and to submit to your consideration a new Act more in accordance with the actual situation and without some of the more stringent provisions of the previous Act. I do not want to discuss the origin of the Act of 1907 except to express my absolute conviction that the Government of India would never have passed a measure of that kind without having duly weighed the heavy responsibility that they incurred and without the knowledge that the provisions of the ordinary law were inadequate to meet the very grave and serious situation that had developed in certain provinces at that time. That the Act has had a beneficial and restraining influence is a fact which no amount of argument can disprove, and the very material improvement that has taken place in the general internal situation is undoubtedly largely due to the restraining influence of that measure. I am far from ignoring the views and opinions of Hon'ble Members who have spoken against the Bill with great moderation and with the dignity that is customary to them. I am confident that their scruples are absolutely conscientious and that they are just as keen and anxious as the Government of India for the maintenance of order and tranquillity and for the dissemination of sentiments of loyalty throughout this great Empire. We differ only as to the best method of arriving at that result. It is, however, a source of intense satisfaction to me to be able to associate myself with the views of Hon'ble Members as to the improved situation and political temper of India, of which, I maintain, there can be absolutely no doubt whatever. In spite of recent instances of crime in Calcutta which all sane men must regard with absolute abhorrence, there has been, I am glad to say, a revulsion of feeling against political violence and crimes to which it so often leads. Thoughtful people have realised that, thanks to the reformed Councils, opportunities are presented for the redress of grievances and for the prosecution of demands by constitutional methods, and that inflammatory speeches and writings are not likely to further, but rather to retard, the progress that we all desire. But to accept as a conclusion from this that sedition and political crime have entirely disappeared would be to live in a fool's paradise and to close one's eyes to the actual facts of the situation. Were the vigilance of Government to be relaxed for one single instant, there is very little doubt that sedition and political crime would once more spring into life and would thwart at least for a time that healthy evolution of political life and material progress that it is the desire and the duty of Government to promote.

"The Seditious Meetings Act of 1907, whatever its blemishes may be, need have had no terrors for the law-abiding citizen. It is an Act that is limited in its operation. It is a purely preventive measure designed to restrict inflammatory oratory on the part of irresponsible members of the community. It would, I should have thought, have met with the warm approval of all those who wish to see the educated youth of India grow up into useful and law-abiding members of the community instead of being exposed to incitement to become seditious agitators and possibly political criminals. We have unfortunately in Eastern Bengal a striking example of the development into ordinary criminals of young men of the middle class who during the last three or four years have been engaged in what has euphemistically been called political dacoities, thus showing the moral deterioration and degradation that have taken place owing to the spread of sedition and illegitimate political agitation. In any case, whatever the objection of some Hon'ble Members may be to the Act in question, they should remember that through its agency the youth of India during the past three and a half years have been protected from the evil effects of sedition preached from the platform. It was with the greatest satisfaction that I learnt that amongst others the student class of Calcutta, an intensely human and sympathetic body, since the restrictions placed on seditious writings and speech, have shaken off all predilections for teachings of that kind and have diverted their attention to the more wholesome and normal interests of manly games and exercises. This is only one instance out of many, but I should remind Hon'ble Members that it is the primary duty of Government to extend the fullest protection to all members of the community, and especially to the rising generation, and I may add that no effort will be spared by Government in so doing.

"One of my first acts on assuming the reins of office in this country was to consider very carefully this question upon which I had an absolutely open mind, and to invite the opinions of the Local Governments as to whether in their view the Act should be re-enacted, or whether it should be allowed to lapse. The complete unanimity of the replies that I have received from the Local Governments, the views of several Indians of marked ability and knowledge, who impressed upon me the danger to public tranquillity were the Act allowed to lapse and no other law to take its place, and the views which I myself have formed during the few months that I have been in this country, have convinced me of the absolute necessity of a weapon being in existence to meet special situations, although it need not necessarily be in evidence. With this view my Government entirely concur. No self-respecting Government with knowledge of the situation which occurred in 1907 would expose itself to the risk of allowing a similar situation to recur without having the means at hand to meet it. Nor would it willingly surrender a weapon that has already proved its usefulness as a preventive and restraining force. It is not to anybody's interest, except perhaps to that of the criminal classes, that the law should be weighed in the balance and found wanting.

"The new Act that is before you is, as you are aware, intended to be of a permanent character, and with that object in view the clauses to which special objections have been taken in the past have either been modified or expunged. It is with regret that I have been unable to accept the suggestion of a time limit for the Act, but I cannot help feeling that a revival of agitation on this subject is very detrimental to the best interests of the State. The new Act, as it stands, is the very minimum required to make it effective. But should it be found in practice that it is wanting in the required force, then legislation will become necessary to give it that force. It is, however, my earnest hope and desire that the new Act may never be put to the test and that before very long it may come to be regarded as an obsolete measure in the Statute-book.

"The present Act was, as Hon'ble Members are well aware, extended by my predecessor's Government to the whole of India. Now, in order to show my trust and confidence in the people of India, I do not intend that the new Act when passed shall be extended to any part of India until the necessity arises—a contingency that I trust may never occur. It depends therefore on the people of India whether the new Act is to remain a dead-letter or not. In



the meantime I adjure Hon'ble Members of my Legislative Council to rally to the side of Government in passing an Act which will not only restrict sedition and crime, but which will at the same time protect your sons and the sons of your friends and relations from pernicious and disloyal teachings that can only end in sadness and disaster."

The motion was put and agreed to without dissent.

The Council adjourned to Tuesday, the 21st March 1911.

J. M. MACPHERSON,

*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA ;

*The 31st March 1911.*

## APPENDIX A.

( *Vide page 448.* )

*Statement showing the percentage allowed in different provinces for depreciation on machinery and buildings, in ascertaining the net profits of factories for income-tax purposes, and the method by which the capital cost is estimated in each case.*

Province.	Amount of depreciation allowed.	Method of calculating capital cost.
Madras . . .	<i>On machinery.</i> —Actual appropriation of the year, subject to maximum of 10 per cent. on present value.	Present value taken from balance sheet, subject to verification.
Bengal . . .	<i>On block generally.</i> —Actual appropriation of the year subject to following maxima :— (i) Iron foundries and machine shops . . . 10 per cent (ii) Paper mills } (iii) Ice factories } . . . 7½ " (iv) Jute and cotton mills } (v) Oil mills . . . } 5 " (vi) Silk mills . . . } (vii) Steam printing presses } (viii) Hydraulic presses } (ix) Bone-crushing mills } 2½ " (x) Flour mills . . . } (xi) Glass manufactories— (a) Buildings . . . 2½ " (b) Furnace . . . 10½ "	Capital cost of block taken from printed accounts.
Eastern Bengal and Assam.	<i>Where accounts are audited—</i> <i>On block generally.</i> —5 per cent on value of block.  <i>Where accounts are not audited—</i> <i>On buildings.</i> —One-sixth of estimated letting value. <i>On machinery.</i> —Either actual expenses on repairs, or, occasionally, 5 per cent on initial cost.	Value of block taken from audited balance sheet.
United Provinces.	General rule as follows, though not invariably observed :— <i>On buildings.</i> —Fixed deduction of 2½ per cent on original cost. <i>On machinery.</i> —Similar deduction of 5 per cent on original cost.	
Bombay (excluding Sind).	<i>On buildings.</i> —Actual expenditure of the year on repairs and general upkeep. No allowance for "book" depreciation.  <i>On machinery.</i> —Actual appropriation of the year's accounts, subject to maximum of 5 per cent on present value of capital cost.	Capital cost is taken as original cost price plus cost of repairs and renewals made from capital or depreciation account. Depreciation allowances of previous years are taken into account in the calculation.
Sind . . .	<i>On block generally.</i> —5 per cent on capital cost.	Capital cost taken from audited accounts.
Punjab . . .	<i>On buildings and machinery.</i> —Actual expenditure on replacements.	
Central Provinces and Burma.	<i>On buildings and machinery.</i> —Actual appropriation of the year.	



# The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, APRIL 8, 1911.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART VI.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 TO 1909 (24 & 25 VICT., c. 67, 55 & 56 VICT., c. 14, AND 9 EDW. VII, c. 4).

The Council met at Government House, Calcutta, on Tuesday, the 21st March 1911.

### PRESENT:

The Hon'ble MR. J. L. JENKINS, C.S.I., Vice-President, *presiding*,  
and 58 Members, of whom 53 were Additional Members.

### INDIAN UNIVERSITIES (AMENDMENT) BILL.

The Hon'ble MR. BUTLER: "Mr. President, I move that the Bill to amend the Indian Universities Act, 1904, be taken into consideration. This is a small measure which I explained when I introduced it into Council. It was slightly criticised then by the Hon'ble Pandit Madan Mohan Malaviya. His criticism did not extend to the Bill so much as to the fact that the Bill was necessary because the Chancellor of the Allahabad University did not see fit to exercise the full powers given him under the present Act. That, however, is a matter which does not concern this Council, and it is obviously better to have half a loaf than no bread. The Bill has been published and no criticism has been received, and, therefore, I will not detain the Council further in the matter."

The motion was put and agreed to.

The Hon'ble MR. BUTLER moved that the Bill be passed.

The motion was put and agreed to.

### INDIAN FACTORIES BILL.

The Hon'ble MR. CLARK: "Sir, I beg to move that the Report of the Select Committee on the Bill to consolidate and amend the law regulating labour in Factories be taken into consideration. I do not propose, Sir, to make



any statement now : the Bill, I think, is generally accepted as non-contentious except that part which relates to the restriction of labour in textile factories. On that part of the Bill there are three important sets of amendments put down. These amendments contain alternative proposals to the provisions which the Government have put in the Bill, and we shall have in discussing them to discuss the whole question of restriction of labour in textile factories. I think, therefore, that it will be greatly to the convenience of Council and will avoid going over the ground twice if we proceed at once to consider the amendments. I might also point out that if it is desired, after the amendments, to discuss the principles of the Bill, it can be done at the last stage on the proposal that the Bill be passed into law."

The Hon'ble SIR VITHALDAS D. THACKERSEY : "Mr. President, it will be very difficult to explain the whole position if we first take up the amendments one after another, because, in that case, we shall have to discuss the whole principle on the very first amendment. I think it will be better, and I hope the Hon'ble Mr. Clark will agree with me, to have a general discussion now, and later on to bring forward amendments."

THE PRESIDENT : "It is quite open to Hon'ble Members to make any remarks they wish to make upon this motion."

The Hon'ble SIR VITHALDAS D. THACKERSEY : "Mr. President, my first words on the motion before us are words of congratulation to Government on the Bill as it has been revised by the Select Committee. Sir, the original draft Bill had aroused fears in the minds of factory-owners as to the effects of its operation. The Select and its Sub-Committees, who were at work over three weeks on the Bill, have introduced important amendments with the object of meeting the convenience of the several industries concerned.

"The principal objects of the Bill have been steadily kept in view, and the Bill as revised by the Select Committee carries out the intentions of the Factory Commission in most respects. At the same time, by adopting a liberal attitude in regard to exemptions, by providing assessors to assist in the hearing of appeals from factory-owners, and by making the clauses of the Bill clear and definite, the Select Committee have done their best to satisfy the reasonable objections of factory-owners. I am glad to say that the Bill before us is a very satisfactory measure in all respects except one or two with which I have attempted to deal in my amendments.

"I should not omit to give the credit for this great improvement in the Bill to one to whom it is largely due. I mean my friend the Hon'ble Mr. Robertson. Owing to the unfortunate circumstance that the Hon'ble Member for Commerce and Industry, Mr. Clark, was not able on account of his illness to attend the meetings of the Select Committee, the burden of the whole work of guiding our deliberations fell on the Hon'ble Mr. Robertson. I am sure I am echoing the feelings of all my colleagues when I say that his complete mastery of the subject, his assiduous industry and his constant anxiety to conciliate all interests have won for him our admiration and high regard. Sir, I was a member of the Factory Commission, and I can assure Government that the Bill before us is excellently adapted to prevent all the abuses which the Commission was anxious to put down, provided, of course, that the work of inspection and supervision is carried out on the lines recommended by the Commission.

"After these remarks on the Bill as a whole, I proceed to indicate the points where I differ from the conclusions of the majority of the Select Committee. They are two in number. In the first place, I object, and I have the unanimous support of my non-official colleagues, including those representing the Bengal Chamber of Commerce, the Bombay Chamber of Commerce, the representative of the Jute Mill-owners' Association, and non-official Members representing other industries who were on the Select Committee on this point, to the introduction of the novel principle of direct restriction of the hours of adult male labourers. We are all agreed that no factory labourer should be required to work more than twelve hours a day. There is no difference of

opinion as to that. The only question is, how is this end of a twelve hours' day to be brought about? The Factory Commission after great deliberation recommended a plan, namely, the creation of a young persons' class with hours limited to twelve. They were of opinion that this would automatically limit the working hours of all labourers to twelve. Government have come to the conclusion that this effect will not be achieved by the plan. But there are other ways by which the same could be done. The Bombay Mill-owners' Association in their recent representation have made one proposal which has also the approval of the Bombay Chamber of Commerce. I suggest another in my amendments, which if accepted by the Council will make it utterly impossible for any mill-hand to work more than twelve hours, without imposing a direct restriction on the hours of adult male labourers. My proposal is to make an hour's interval compulsory after a mill has been working for twelve hours. According to clause 29 no factory can work earlier than 5-30 or later than 7 o'clock. After six hours a compulsory stoppage of half an hour is required by clause 21. A mill which begins at 5-30 will stop for half an hour, between 11-30 and twelve noon. It will work again from twelve to six, and a stoppage of one hour after that would come to 7 o'clock, after which it is prohibited from working under section 29. Thus the object of a twelve hours day will be automatically ensured without legislating on the hours of the adult male labourer. I earnestly hope that Government will, even at this last moment, give a favourable consideration to the amendment. I assure Government that the idea of a direct limitation of men's working hours has caused, and is causing, great alarm among the industrial community. It is felt to endanger the future of Indian factories. We feel that sooner or later this concession which Government propose to make to outside pressure will lead to further demands for greater direct restriction which Government, with all the good will in the world, will be powerless to resist. We may be wrong, but we strongly feel that Government by introducing this novel principle of adult restriction will be throwing away a valuable safeguard to the interests of Indian industries. I have only to refer to the past history of the excise-duty on Indian cotton-factories to show that our fears are not unfounded.

"Then, Sir, I differ from the majority of the Select Committee as to the justice of extending the provisions of the Bill to factories working daylight hours. I may remind the Council that the abuses which the Bill is designed to check arose in mills worked by artificial light, and that it has been admitted that if electric light had not been introduced there would have been no need for present legislation. Why, then, should the provisions of this Bill be extended to factories working by natural light? The chief objection of opponents to the exemption of daylight factories was that the longest working day would be 14 or 14½ hours in the hot weather. But I have provided against it in my amendment, under which the maximum day shall not exceed 12½ hours. While I believe that, ultimately, all mills will find it desirable to adopt a uniform 12 hours day, I think it unjust to impose restrictions where no abuse has occurred. I trust Government will be pleased to consider this suggestion also favourably. I may mention that the Government of Bombay have supported this view. My Lord, there are two other matters to which I wish to take this opportunity of calling the attention of Government though I have not thought it necessary to move any amendments regarding them. The Factory Commission recommended the appointment of a Chief Inspector of Factories, primarily with a view to ensuring uniformity in the administration of factory laws. Government have, however, decided to dispense with this appointment in deference to the views of Local Governments. But, Sir, I earnestly hope that the main object for which the Factory Commission made the recommendation will not be lost sight of. I need not remind the Council that there has been in the past a great deal of difference in the manner in which the Factory Act was administered in the several provinces. In order to avoid such a contingency in the future, the Bombay Mill-owners' Association have suggested that all rules made under the Act should be uniform except so far as local conditions warrant any alteration, and that the Government of India should see that this policy is carried out by Local Governments. Sir

the best course seems to me to be that the Government of India should draw up a set of model rules for the guidance of Local Governments who will make the necessary changes in them to adapt them to local requirements. I further think that an annual conference of factory inspectors to compare notes will be useful in keeping factory administration on the same level of efficiency in all parts of the country. I should like to have a clear pronouncement from Government on this important point.

"Lastly, Sir, I wish to support the suggestion of the Bombay Mill-owners' Association with reference to the clause relating to ventilation. The subject is a highly technical one; but it is necessary, as has been done recently in England, to have an exhaustive enquiry carried out by experts, and such enquiry was recommended by the Factory Commission also. The rules framed for the due ventilation of factories must be based on the conclusions of such an enquiry.

"In conclusion, I would again congratulate Government and country on the eminently satisfactory manner in which the difficult problems connected with factory administration have been dealt with in the Bill before us."

The Hon'ble MR. DADABHOY : "Sir, I feel I cannot allow this opportunity, when the Bill relating to the regulation of labour in factories comes before this Council for the last time, to pass without once again entering my emphatic protest against the restriction of adult labour; and I do that, despite what has been said this morning in a daily paper, that we are 'desperate and unprincipled men, and that we are Bill-wreckers.'

"Sir, I have no hesitation in strongly condemning the portion of the Bill providing for a restriction on adult labour. Before I proceed I must join with Sir Vithaldas whole-heartedly in offering congratulations to the Hon'ble Mr. Robertson for the consummate skill and ability with which he has followed this highly technical and important legislation through the Select Committee. I publicly acknowledge our debt of gratitude to him for the facilities and information he very cheerfully gave us during our labours in the Committee. Sir, I do not feel myself justified in taking up the time of this Council at considerable length after the remarks that I made on the restriction of adult labour when the Bill came up before this Council in January. I regret that the Select Committee have not seen their way to delete this provision. Sir, I am afraid this provision will have a serious effect on legislation in this country. I do not wish to repeat the remarks that I made on the subject the other day. I shall content myself with reading one or two passages from an important paper called the *Engineer* published since I made my observations in this Council, and the fear and apprehensions which I then entertained are amply borne out. I pointed out in my speech in January last that this Council was embarking upon a revolutionary and dangerous piece of legislation. I brought to the notice of Hon'ble Members that this experiment had failed in France; it had failed in Switzerland; and it had failed in the United States; it was a practical failure in England; and I am confirmed in my view by the opinion which has been expressed on this matter at home. I shall only read a few passages from the very sober and sensible leading article in this paper, the *Engineer*.

"The first passage reads :

'In the North, however, something more than a mere question of wages is at stake—some cardinal points in the vexed problem of State interference with industry are involved, for the Eight Hours' Act is at the root of the mischief.'

"Again :

'And it is evident that the miners of the North are not going to submit quietly to the inconveniences, losses and hardships inflicted upon them by this new measure. The plain truth is that this Act will not fit the natural economic conditions of the Northumberland coal trade. The idea that peace had been established in the North, when the miners who had been on strike there from January to April last year returned to work, was quite mistaken.'

"Another important passage runs thus :

'Thousands of the miners struck against these new conditions at the beginning. All the time they have been pressing for a remedy; in other words, they desire to go back to the



conditions which prevailed before the Eight Hours Act was passed. But the owners cannot very well comply with the request and at the same time comply with the law. Nevertheless, the men are about to prosecute their demand still more vigorously. The most unfortunate part of the business is that the miners, misled by socialists, are inviting the coal-owners to remedy their grievances, when, as a matter of fact, they ought to appeal to Parliament for a remedy; for their grievances are the outcome of an Act passed by Parliament, and which Parliament alone has the power to amend. As we have all along suggested, the best way out of the difficulty would be by way of an amending Act permitting 'local option'—that is, giving each district the right, upon a ballot vote, to contract out of the eight hours' law.'

"Sir, this will show that the reaction has already set in in England, and I feel quite convinced that before long the English labouring classes will have their voice heard, and that limited hours of labour in special branches of English industries will before long be abandoned in England. When people in England, when people in other civilised countries, are finding out the mistake of past legislation, we practical men here are legislating for a law which has been found from experience to be entirely undesirable and unsuitable.

"I cannot allow this opportunity to pass without answering one or two observations that fell from my Hon'ble friend Mr. Robertson when he replied in the course of the debate which took place in Council in January. I pointed out to this Council that the only ground, the only reason, which prompted Government to undertake this legislation was the installation of electric lights in some of the Bombay mills. I stated then that only in 1905 that this dereliction or default, whatever you may call it, had been committed by the Bombay mill-owners, and that since that year Bombay mill-owners had never worked for more than twelve hours a day. The Hon'ble Mr. Robertson in his reply was pleased to join issue, and to state that that was not the only text which Government had before them. Up to now, Sir, we have not heard of the second text that induced Government to undertake this legislation, and I, for my part, shall be very pleased to be enlightened in the course of the debate to-day on the other reasons that have prompted the Government to undertake this important piece of legislation. I repeat, Sir, what I said previously, that this restriction would handicap our growing Indian industry, and, despite what has been said in the Press, I maintain my allegation. I say that it will strangle the industry in this way. It will not affect us in the least in our competition with the United Kingdom. It will not affect us in our competition with England and Lancashire for the simple reason that we do not come in competition with them; but it will seriously handicap us in our competition with China and Japan. In Japan great progress has been made in recent years, and numerous mills are fast springing up. China is awakening after a long state of torpor. China before long will go in largely for the mill industry, and the result will be serious competition with India. We are gradually losing the Japan market, and once China becomes vigorous and self-supporting, it will be found that the Indian industry will suffer very considerably. Sir, I do not believe in sweating labourers; I am not an advocate of work for more than twelve hours; I do not believe in imposing strenuous hours on the labouring classes. I fight this question simply on principle; I fight this question simply on economic principle. I say it is a wrong policy—a policy which militates against all economic considerations—for Government to undertake a piece of legislation of this description. The Hon'ble Mr. Robertson was good enough to assure the Council the other day that there would be really no danger by restricting labour to twelve hours, inasmuch as mills would not lose anything in the matter of production; in fact, the mills would gain in production; and in support of this, he quoted the opinions of the managers of two of the most prosperous mills in India—I mean those of Cawnpore and Nagpur. Now, Sir, on this subject allow me to draw the attention of the Council to the Report of the Factory Commission. They themselves were extremely doubtful whether this restriction of twelve hours would have any effect on the question of production. In paragraph 53 of their valuable and illuminative Report they state this:

'The information which we have been able to collect on this subject is, however, of but little value; and a sufficient basis has not in general been given upon which to rest any definite conclusions. The conditions affecting production in Indian textile factories include so many

factors, of which the length of the working day is only one, that it is quite impossible to base any opinion of a reliable character upon isolated statistics covering an indeterminate period, such as the majority of the mills have supplied ..... This practice renders it impossible to obtain comparative figures of any value showing the effect of varying hours of work on the outturn of the operatives in such mills.'

"Sir, the opinions of two expert managers have been quoted, for one of whom I entertain the highest regard; but I may as well ask the Hon'ble Member over there if these two mill managers, whose opinions were quoted with so much force in this Council, were fully convinced that the mills would gain by working short hours. The opinion of one of these gentlemen was to the effect that a 11 hours working day was quite sufficient. Is it too much for me to ask why these gentlemen are waiting for this factory legislation to be passed? Why are they waiting for this Factory Act to be passed to enforce a shorter day? If they were so sure that the mills would not suffer in the end in production, they ought to have set an example before this Act was actually passed, and enforced an eleven hours day. I, therefore, say that the strongest argument, the strongest fact which could be urged against that statement of my friend the Hon'ble Mr. Robertson is the inability of these mills themselves to put into practice what they are so ready to preach. I am afraid, Sir, that this legislation, though the Government's intentions and motives are benevolent, will hardly be of much service. As I said before, Government will be sadly disappointed if they hope that, by passing an enactment of this kind, they will improve the general health and conditions of life of the labouring-classes. And here I cannot do better than express the opinion of the Upper India Chamber of Commerce, most of whose members are Europeans, who have expressed themselves with so much precision and truth on this question. The Upper India Chamber of Commerce remark:

'With a twelve hour day imposed by law, it is inevitable that Indian operatives will be compelled to work more strenuously, a condition altogether foreign to their habits and inclinations. This compulsion will not come merely, or even mainly, from the necessity employers will be under of obtaining the output essential to profitable working, but will be the result of the additional effort the operatives must put forth to earn the wages they draw under existing conditions. A longer, but less strenuous, day suits the needs of the Asiatic operative, and it seems to my Committee that Government incurs the gravest responsibility in overturning by drastic legislation conditions of labour which have evolved in harmony with Indian peculiarities of climate and temperament. My Committee regard with serious misgiving the consequences likely to result from arousing discontent amongst all those engaged in industrial enterprises whether employers or employed.'

"I can hardly add anything, Sir, to this explicit statement. The legislation, instead of conducing to the health of the operatives, will tax their energies to the utmost. Employers of labour will demand from them, within those limited hours of work, more strenuous work, and the result, Sir, will ultimately be one which you are seeking here to protect them against. Sir, on this subject I shall not detain the Council much longer, but I shall sound a note of warning to this Council. I am afraid, as Sir John Hewett so ably remarked, this will be a prelude to further legislation in this very Council. There will be a day not long distant when this Council will be called upon to undertake further restriction, possibly from twelve to eleven hours. There will be a day when pressure will be put from England to restrict further this time limit which you are now about to fix, and I venture to state resistance will be then impossible. Then it will be too late for this Council to take up an attitude of protest or opposition, and I submit therefore that this danger ought not to be kept out of sight. But, Sir, if this legislation is to be undertaken at all, I entirely disagree with my Hon'ble friend Sir Vithaldas Thackersey. I do not believe at all in makeshifts; I do not believe at all in adopting subterfuges for the purpose of backing out of a principle which Government may not feel morally justified in maintaining. If Government thinks that there should be a restriction of adult labour, let it openly enforce it, and deal with it in an overt manner, and not adopt the circuitous methods suggested by my Hon'ble friends Sir Vithaldas and Mr. Mudholkar. I may perhaps speak again on this subject later on, but my firm opinion is that, if the principle is sound and acceptable, the situation must be boldly faced, and that Government will not lay itself open to the charge of

moral weakness in having taken up a position which they themselves were unable to defend. For these reasons I fear I cannot support my Hon'ble friend Sir Vithaldas. I think I have made myself perfectly clear, and I appeal again to Government before I resume my seat to see their way to remove this arbitrary, unreasonable and injudicious provision from this Bill."

The Hon'ble MR. MONTEATH: "Sir, at the outset I would desire to associate myself with my Hon'ble colleague Sir Vithaldas Thackersey in his opening expressions of satisfaction and congratulation on the general outline of the Bill as now submitted.

"It will be in the recollection of the Council that when the present Bill was introduced on 3rd January last I reiterated the views of the Bombay Chamber of Commerce in supporting Government in the measures proposed with the one exception of the direct legislation on the limitation of hours for adult male labour.

"The Bombay Chamber are unchanged in their views, and firmly hold to the position they advocated, and much regret that the possibility of indirect legislation in this detail has not been accepted. The Chamber are therefore in full sympathy with the minute of dissent which has been added to the Report of the Select Committee, assigned by six of the members of that Committee, seeing the principle of restricting the hours of work of adult male labour is quite a novel one and has not been recognised in textile factories in any part of the British Empire. I would repeat the statement of the dissenting members of the Committee, in pointing out that the Factory Commission of 1908 emphatically deprecated such restriction and showed there was no necessity for the adoption of such a drastic course.

"Under the circumstances I hope that even at this late stage the Government may give way on this point where there is undoubted feeling—a point which many think will cause inconvenience and hamper enterprise. In other respects I feel the Bill as submitted by the Select Committee is both useful and workable in its present form.

"I know there are several amendments proposed covering the above point, but these amendments include other suggestions, such as altering the hours for children, or eliminating the clause limiting the use of machinery. If the amendments of each Member are taken *en bloc*, I shall be unable on behalf of the Bombay Chamber to support them, as they prejudice the general principles of the Bill, which is not what the Chamber have any desire to frustrate."

The Hon'ble MR. MUDHOLKAR: "Sir, I wish to associate myself with the remarks which have been made by my friend Sir Vithaldas Thackersey in making our acknowledgment to the Hon'ble Mr. Robertson for the very able and conciliatory manner in which he has conducted the proceedings in Select Committee on this intricate and complex measure. With him I should like to associate also the name of one who was working, it might be said, behind the scenes, but who, we know, has helped him considerably in the framing of that measure and in giving advice at the various stages of the proceedings. I refer to my Hon'ble friend Mr. Fremantle. With the general principles of the measure I am in entire accord. The only difference between the majority of the members of the Committee and those who have signed the minority report is in regard to sections 28 and 31 of the Bill. It is regarded and described as the central principle of the Bill. But if the suggestions which we shall make when we come to the actual moving of amendments and with the observations I shall presently submit to the Council, it will be seen that there is hardly any difference in regard to essential results between the proposal of Government and those which have commended themselves to my friend Sir Vithaldas Thackersey and to me. There is one misconception which seems to prevail in regard to our attitude which I will ask the Council to permit me to clear up. It seems to be thought that those who do not accept sections 28 and 31 have no sympathy with the working classes, that they are advocates of excessive working, and that it is personal considerations which have actuated this attitude. Sir, I wish to assure this Council that it is in the interest of the country, and of the great industry which is regarded



as the most important one, that we deprecate the proposed direct limitation of hours of labour. The textile industry is in importance second only to the agricultural one. It is working amidst great difficulties. Taking that section of it which is carried on with the aid of power-driven machinery, it is necessary to remember that it has to fight against great odds. The machinery has to be obtained from abroad. Its cost here is more than what it is in the countries of the West. Industrial capital in India is comparatively small. The operatives are ignorant, untrained and very inefficient. Even the overseers and managers are not as highly qualified as those in Europe or America. The result is that the cost of production in India is greater. It is a mistaken notion that labour is in this country helpless and entirely at the mercy of the capitalists. The rise in wages which is observable everywhere shows the fallacy of this belief. Owing to deaths from famine, plague and epidemic diseases, efficient labour-supply has undergone diminution. With the springing up and spread of new industries a further restriction of labour available to the cotton industry has taken place. Instead, therefore, of the operatives being at the mercy of the capitalists, it is the latter who have to conciliate and humour the former.

"It is on a consideration of practical difficulties like these and not on mere abstract grounds of the doctrine of *laissez faire* that legislative interference with adult male labour is deprecated. Reference was made by the Hon'ble Mr. Robertson to a statement in the evidence I gave before the Factory Labour Commission. I would in fairness to myself and to the class I am deemed to represent crave the permission of the Council to quote what was said in another part of my evidence :

'It was his opinion that twelve hours work a day was the limit where men worked continuously, but taking into account the conditions of work in India, viz., that adults cannot work continuously at a stretch for more than three or four hours, the nominal hours of labour must be longer. On his present physique the Indian operative was incapable of applying himself intently to any kind of work for six hours without intermission.'

"In another portion of my evidence I had to point out the distinction between nominal hours of labour and the period of actual employment of each operative observed in practice. It will thus be seen that as to the desirability of limiting the average working day to twelve hours there is no disagreement on principle. What is objected to is the direct limitation by a legislative provision.

"I would point out to the Council that clause 29 as it exists in the Bill when worked with the amendment proposed will produce the identical result that clause 28 is designed to do. 'No person shall be employed in a textile factory before half past 5 o'clock in the morning or after 7 o'clock in the evening.' This gives 13½ hours as the total period during which a factory can work. Deducting out of this the half-hour stoppage of all work after the first six hours and the further one hour after the second period of six hours, there will remain only 12 hours of actual employment.

"If the attainment of a certain result is all that Government aim at, there is no reason why this amendment should not be accepted. It might be asked why we, who are prepared for an indirect method which produces the same result as clause 28, are unwilling to accept this clause.

"The fears of those who are opposed to direct restriction by legislation on the hours of male labour is pithily summed up in the note of Sir John Hewett drawn up for the Factory Labour Commission. His Honour said :

'I recognise the objections to the regulation of the hours of adult male labour by law, and I fear that, if legislation is now undertaken to limit the working hours of adult males to 12 or to 13 hours, it will not stop, but that attempts will be made in the future—not always suggested merely by the idea of doing justice to the operative—to still further restrict the working hours of adult males.'

"As to how such a law would be regarded by the operatives themselves I would again quote that same authority :—

'I am not sure that a limitation by law to 12 or 13 hours will be popular with the operatives themselves, since it must lead either to the reduction of the earnings or to their having to work more strenuously than they do at present.'

"I have no right to rank myself as a capitalist with men like the Hon'ble Sir Vithaldas Thackersey, Sir Sassoon David or the Hon'ble Mr. Birkmyre. I do not claim to represent that considerable section of middle class Indians who have for the sake of raising the economical status of their country and mitigating the poverty of the masses applied themselves to the study of industrial questions and the development of industries. Their own countrymen and the working people under them know why these persons have courted responsibility, labour and often pecuniary losses. I believe, Sir, the Government have been keeping themselves informed of the views expressed on this subject by the Indian Press, I mean that section of it which writes with knowledge, restraint and a sense of responsibility. If one thing is clear, it is that that Press as a whole strongly opposes this direct limitation by legislation. The class I represent is not answerable for the temporary excessive working in Bombay or the disregard of the law in some places. Their sympathies with the working classes are genuine and substantial. They do not want sweating, whether it be textile factories or printing presses, but they do want the Government to see that this can be accomplished by the indirect method, that is, by working on lines similar to those of the English Factory Law. Sir, it has been stated that if there are to be limitations imposed on the hours of working, the best method would be the direct method. All I have to say in regard to this suggestion at this stage is that we are only following the methods of the English law in proposing the adoption of the indirect method. The English Acts, Sir, have by laying down regulations in regard to the employment of women and children brought about the limitation of the working hours of the factories. I do not see, Sir, why we should not follow that method and establish a 12 hours' working day for all practical purposes by indirect methods similar to those employed in England."

The Hon'ble MR. QUIN : "Sir, there are just a few remarks of a general nature which I think I can most suitably offer at this stage. The Bombay Presidency can justly claim to be interested in the provisions of the Bill as much as, if not indeed more than, any province in India. Bombay is the great centre of the cotton industry, and it was the experience of Bombay in the year 1905 which may be said to have started the movement for reform of the factory law which is about to reach a successful culmination in the passing into law of the Bill which is before us to-day.

"Notwithstanding this, Sir, there is not very much which I have to say on this occasion, because the Bill has emerged from the Select Committee in a form which is generally satisfactory to the Government of Bombay, whom I have the honour to represent in this Council, as I hope it may be to this Council also. The crying needs of the situation which was found to exist in Bombay in 1905 were, in the first place, increased protection for the children employed in textile factories, and secondly, effective provision to render impossible the undue exploitation of adult male labour.

"The provisions of Chapter V of the Bill as amended by the Select Committee are, so far as can be judged in advance, eminently suitable for the attainment of these objects. Clauses 28 and 31 provide directly and specifically for the establishment of a working day of not more than 12 hours for all persons employed in a textile factory, while clause 32 prescribes that no child shall be employed for more than 6 hours, the period recommended by the Commission.

"So long as these clauses remain in the Bill I have nothing more to say about them, but it will be my duty to oppose any attempt which may be made either to render them ineffective or to delete them from the Bill.

"As regards children, Sir, it is, I think, known to the Council that the Government of Bombay would have liked to see the age at which a child may begin factory work raised from 9 to 10. This concession to an enlightened humanitarianism was not recommended by the Factories Commission, and it is not one which the Government of India have thought fit to allow; but the fact that a child will still be permitted to be employed in a factory at the tender age of nine is surely a good reason why special care should be taken to ensure

that he or she cannot be compelled to work excessive hours. The deliberations of a strong and representative Commission have resulted in the recommendation that children should not be permitted to work for more than 6 hours in one day, and on behalf of the Government of Bombay I am to urge strongly that effect should be given to this recommendation in the enactment now before this Council. It is to be regretted, Sir, that the proposal for a daylight working day, as an optional alternative to the fixed 12 hours day, a proposal which has the support of some of the mill-owners in the Bombay Presidency and specially those of Ahmedabad, could not be adopted by the Select Committee. There is much to be said in favour of a natural working day in localities where the working hours would never at any time in the year exceed  $12\frac{1}{2}$  or 13; and if special provision can be made in the Bill for mills worked by a system of shifts, it is not clear why the difficulties presented by the daylight day should be regarded as insuperable.

"It seems probable, however, that the special provisions, if made, would be availed of by a few mills only, as the average daylight day would work out to some 15 minutes less than 12 hours, and it is not likely that many millowners would handicap themselves by adopting it. In all the circumstances, therefore, I do not press for any further consideration of this matter at the stage which has now been reached. What I do hope, Sir, is that neither doctrinaire considerations, based as I venture to think on a misapprehension of sound economic theory, nor misgivings of an imaginary danger which the future may hold in store for our manufacturing industries, will be permitted to interfere with those provisions of the Bill as it now stands which give direct prohibition to excessive hours of labour in textile factories—provisions which are, in my opinion essential to the success of our legislation.

"What is wanted, Sir, in my humble opinion, is a 12 hours day for adult males and a day of 6 hours for children; and I feel that if we do not get them in this Bill we shall lose a great opportunity not only of ameliorating the condition of the toiling masses in our factories but also—and this is my honest belief—of serving in the long run the best interests of the employers and of the industries upon whose prosperity the welfare of this country so largely depends."

The Hon'ble MR. CLARK: "For one reason at least, Sir, I am glad that the Council did not accept my suggestion that we should proceed at once to the amendments: it has enabled me to add my tribute to the work done by the Select Committee who have considered this Bill, and especially by my Hon'ble friend Mr. Robertson who had charge of it on behalf of the Government. The work, I think, has been excellently done, and although I was not present myself, I have had ample reason since to know what a large share in its successful issue was due to the Hon'ble Mr. Robertson.

"I think I had better say at once that Government cannot possibly agree to withdraw Chapter V of the Bill, which contains the provisions for the restriction of hours of adult labour in textile factories.

"What after all are the real objections to these provisions? The Hon'ble Mr. Dadabhoy has told us that these provisions will strangle an infant industry. The cotton industry of Bombay, to put it mildly, is a well grown infant, and it is almost impossible to believe that the restriction of working hours to 12 could seriously impair the output or energies of a well-organised industry. The Hon'ble Mr. Dadabhoy referred to what my Hon'ble friend Mr. Robertson said, on the motion to refer the Bill to a Select Committee, as to the effect of reduction of hours on production. The Hon'ble Mr. Dadabhoy quoted certain passages from the Report of the Factory Commission in which they referred to the difficulty of assessing accurately the effect of such a reduction. Of course, that is a thing that you cannot possibly do. You cannot assess the effect to a close and accurate figure. But at same time, if the Hon'ble Member had read further on in the report, he would have seen that some of the best managed mills in the country have adopted shorter hours for the very reason that they found it paid them better. The Cawnpore Cotton Mill, for instance, has adopted a 12-hour day since February 1907 after experimenting as to the most suitable working hours from an economic standpoint. In the case of the Elgin Mills



at Cawnpore, the management found that a 15-hour day led to bad work, great waste and uneconomical working. They reduced the hours gradually to 12 and have been working 12 hours a day for the last 8 years. Mr. Bezonji Dadabhoy, manager of the Empress Mills, Nagpur, has appended to his written evidence certain statements showing the effect on production of working days of varying lengths. These statements show that over a period of ten years the production per spindle per hour is on the average higher the shorter the working day. The Commission themselves say, summing up the whole question :

'We incline to the opinion—though we readily admit that we cannot produce any satisfactory statistical evidence likely to convince others—that the general adoption of a 12-hour day in textile factories in India would not materially reduce the output below that at present obtained in 13 hours. Production would probably fall off at first to a considerable extent; but we believe that this would gradually be rectified, and that within a short time the production under a general 12-hour day would probably equal that now obtained by working for 13 or 13½ hours.'

"Well, Sir, I think that in view of that pronouncement it is impossible to maintain the suggestion that the mills would be ruined by this restriction. Indeed, if the Government are to be accused of ruining the mills in that way, the same charge would apply—and it shows how very inapplicable the charge is—to the proposal put forward by the Hon'ble Sir Vithaldas Thackersey himself. I think he claims that his daylight day (and certainly the Hon'ble Mr. Quin has supported that view) would produce a working day all the year round of not more than 12 hours, and he similarly claims that the proposal that there should be an hour's interval after every 12 hours work would have the same effect. Well, it is hardly to be believed that the Hon'ble Sir Vithaldas would put forward a proposal which he considers would seriously impair the interests of the mill industry in India.

"I do not propose now to discuss the merits of these two proposals, the daylight working day and the other of the Hon'ble Sir Vithaldas' proposals, because there are amendments put down in respect of them which will have to be considered later on. But there were two points which were mentioned by the Hon'ble Sir Vithaldas to which I may refer. He urged the appointment of a Chief Inspector. It is not, however, necessary to put provisions in the Bill for such an appointment, as it would be open to the Government of India, if it is found necessary to appoint a Chief Inspector later on, to make such an appointment without special powers. All that would probably be necessary would be that each province should confer upon the Chief Inspector powers of an Inspector within their borders. In that way the point could be met. We did not consider it desirable to put anything about a Chief Inspector into the Bill until we should be in a position to say whether a Chief Inspector would be required or not.

"If I may say so, I think the Hon'ble Member's suggestion that there should be annual conferences of Inspectors is an exceedingly good one. It would produce unity in the policy pursued and in every way would tend to good administration.

"Another point to which he referred was the question of ventilation and the establishment of a standard for the purity of air in factories. This point is under consideration. The Factory Commission recommended that a Committee should be appointed to consider it, and the question of appointing a Committee is under the consideration of Government and will be taken up as soon as the Bill is passed into law.

"I do not think I need say anything further, Sir, on the general question, and I propose that we should proceed now to the consideration of the amendments."

The motion was put and agreed to.

The Hon'ble SIR VITHALDAS D. THACKERSEY: "Mr. President, I beg to move that in clause 2, sub-clause (9), of the Bill as amended by the Select Committee, the following words be added at the end of the proviso, namely:—

'whether they be separate works or situated in the compound of a textile factory.'

"Sir, this question was raised in the Select Committee and it was thought that it would meet the case if power were given to Local Governments to treat as different factories branches which are situated in one compound, and with that view section 53 was added, where power is given to the Local Government to do this. The section runs thus:—

'The Local Government may, subject to the control of the Governor General in Council, by special order in writing, direct, with respect to any factory or class of factories, that different branches or departments of work carried on in the same factory shall for all or any of the purposes of this Act be treated as if they were separate factories.'

"Also it is true that in section 21 provision is made that the half hour interval is not to apply to bleaching and dyeing works, and in that way to a certain extent the inconvenience which I seek to remove will be avoided. But the Bombay Millowners' Association think that it would be made quite clear if this clause was added to section 2 (9) so that under that section every branch other than the real textile branch will not be a textile factory under the Bill. That is the view taken by the Bombay Millowners' Association, and, as its representative here, I think that the amendment should be passed. I therefore move it."

The Hon'ble MR. DADABHOY : "I beg to support it."

The Hon'ble MR. CLARK : "I must point out, Sir, that this amendment, if accepted, might give rise to considerable difficulty in administration. It is impossible to give a clear definition of what would be within the compound of a textile factory, because the limits of a compound are not always clearly marked. In any case I really think it is hardly necessary to put in a provision of this kind. If the Hon'ble Member will turn to clause 53, he will see that powers are given to Local Governments 'subject to the control of the Governor General in Council, by special order in writing, to direct, with respect to any factory or class of factories, that different branches or departments of work carried on in the same factory shall for all or any of the purposes of this Act be treated as if they were separate factories.' I think that safeguards the point he has in mind and renders this amendment unnecessary."

The Hon'ble SIR VITHALDAS D. THACKERSEY : "I beg to withdraw it."

The amendment was withdrawn.

The Hon'ble MR. CLARK : "I beg to move that to clause 18 of the Bill, as amended by the Select Committee, the following sub-clause be added, namely :

'(4) Such provisions as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery or boilers of any factory.'

"Clause 18 of the Bill, Sir, deals only with the fencing of machinery. Dangers may arise in other ways than merely by machinery being improperly fenced, and it seems desirable to take powers to secure sufficient safeguards being provided. In nearly all provinces at the present moment there are regulations in regard to running belts—as to the clothing of the men who are attending to them, and other particulars—in order to prevent accidents. At the present moment there is no statutory prescription behind those regulations, and it seems desirable in order to put the thing on a proper basis that such prescription should be inserted in the Bill."

The Hon'ble SIR VITHALDAS D. THACKERSEY : "Mr. Chairman, so far as the first part of the amendment is concerned, I do not wish to oppose it. 'Such provisions as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery.' I agree to it. But the latter part—'or boilers of any factory'—I strongly oppose. I am opposed to the introduction of the word 'boilers' in this section. So far as the general provisions of the Act apply to factories, including boilers, these provisions are unobjectionable, but when you bring in danger from boilers, in section 28, and give power to inspectors and also to Local Governments to make rules, it means that for the boilers there would be dual control. There is a special Act, which deals specially with the danger arising from boilers, and if we give power under this Bill to the factory inspector to deal with the dangers

arising from boilers, it means that the factory-owners will have to deal with the inspectors under this and also the inspectors under the Boiler Act. I have not been able to go into this question thoroughly, but I do not know whether difficulties may not arise as to procedure. Under the Boiler Act, when we appeal to Government, a Commission is appointed, and so on. Under the Factory Act, there is a different procedure for appeal, and I submit that as the matter has not been considered by the Select Committee, and as the Council has had no opportunity of going into the details of what the actual effect of these words may be on the ultimate working of the Act, Government should not press for these words to get into the Act at this late stage. It may be that, if we had considered the whole question in the Select Committee, we might have come to the conclusion that there was no danger in introducing these words; but I do submit, Sir, that *prima facie* it seems that there are strong reasons why these words should not go into the Factory Act.

"I may point out, Sir, that the English Factory and Workshops Act, it is true, contains certain provisions for the safety of hands against danger from boilers; but it must be remembered that there is no special Boiler Inspection Act in England. The boilers in England are examined through the private agencies at the option of the factory-owners. Section 10 of the English Act deals with the fencing of machinery and section 11 deals with steam-boilers. It runs:—

'Every steam-boiler used for generating steam in a factory or workshop or in any place to which any of the provisions of this Act apply must, whether separate or one of a range,—

(a) have attached to it a proper safety-valve and a proper steam-gauge and water-gauge to show the pressure of steam and the height of water in the boiler;'

and there are other things mentioned in this Act; but there is no special Boiler Inspection Act in England, and therefore the whole Act is one. In India, as there is a special Act, I strongly oppose the introduction of these words 'or boilers' into this section and especially for the reason that at this late hour they should not be introduced."

The Hon'ble MR. MUDHOLKAR: "Sir, I am glad my friend the Hon'ble Sir Vithaldas Thackersey has pointed out this difficulty. I must confess I looked into this matter only this morning, but it was to little purpose, as I have not with me the Boiler Inspection Act which is in force in Bombay, and which, with slight modifications, has been applied to the Central Provinces and Berar. I could not get a copy here. I have therefore to go on my recollection of the provisions of that Act. The thing is this: under that Act the inspector of boilers is invested with powers, and under certain of its provisions he is empowered to give orders and issue directions. The result of the present Act would be that the inspector of factories, who, we understand, is to be altogether a different personage from the inspector of boilers, might pass one set of orders and another set of orders might be passed by the inspector of boilers. What might be considered proper and sufficient by one might not be considered proper and sufficient by another. In regard to this conflict of authority, I pointed out in the Select Committee that when there were a number of inspectors, there were at times different orders passed by different inspectors, and factory-owners found it difficult to carry on their work until the matter was carried to a higher authority. I think there is a likelihood of overlapping of jurisdiction and conflicting orders. I think the subject is one which should have been brought in the Select Committee and considered there. It really is a matter of detail requiring the examination and comparison of the two Acts. It is not at all convenient to consider it in Council and it should be dropped."

The Hon'ble MR. MONTEATH: "Sir, I fully support the remarks that have been made by the Hon'ble Members who have just preceded me, as I do not think it desirable to have dual supervision over boilers in factories."

The Hon'ble MR. CLARK: "The Hon'ble Sir Vithaldas Thackersey very courteously informed me that he was going to raise this point and we have had time to verify our reasons for including the words 'or boilers'. The Boiler



Inspection Act relates solely to the prevention of explosions, and there is no proposal here to interfere in any way with the working of that Act. What we have in mind is the prevention of accidents to men who are stoking boilers and attending to the automatic feed arrangements now in use, and that covers quite a different ground from that affected by the Boiler Inspection Act. There is no danger of the function of factory inspectors overlapping with those of inspectors under the Boiler Inspection Act. I may add that the regulations will be published before they are put into force, so that it is not as if we were immediately imposing a new requirement on factories."

The Hon'ble SIR VITHALDAS D. THACKERSEY : "Mr. President, I beg to raise a point of order—whether it is in order to introduce new matter at this late stage into the Bill in this Council, which has not been considered by the Select Committee and which has not also been considered by the country at all. Of course, Government can carry it through ; but, I submit, it is most unfair to the industry and the country that at this late stage it should be introduced."

THE PRESIDENT : "I do not think that the moving of an amendment of this kind is out of order. It may be inconvenient and therefore it is a course which is to be avoided as far as possible. But in a question of this kind in which the amendment is very nearly related to all that has been considered in the Bill and with regard to which there are many Members in this Council who have full information, I do not think there is any objection to its being placed before the Council."

The Hon'ble SIR VITHALDAS THACKERSEY : "I bow to your decision. But I would suggest to the Hon'ble Member that a few words be added to this in order to make it clear. The section should run thus :—

"Such provisions as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery or boilers of any factory which are not provided under the Boiler Inspection Act."

"The dual control is objectionable, and we want to prevent it. It is very easy to say that dual control will not be there, but when a power is given to the factory inspector and the inspector of boilers, it is impossible to prevent dual control. We must make it clear that the intention is not to overlap the powers under the Boiler Inspection Act."

THE PRESIDENT : "I am afraid it is too late to enter upon a discussion of that kind at the present time."

The amendment was put and agreed to.

The Hon'ble SIR VITHALDAS THACKERSEY : "Mr. President, I beg to move that to clause 21, sub-clause (1), of the Bill as amended by the Select Committee the following proviso be added, namely :—

"Provided that in the case of a textile factory, after it has worked for twelve hours, further work shall be discontinued for not less than one hour."

"Mr. President, this amendment is one of a series of amendments intended to secure the 12-hours day as desired by Government and, therefore, on the vote on this amendment will depend whether the other amendments shall be moved or not. Therefore, with your permission, I will explain to the Council how this amendment will affect the situation. I explained to the Council in my first speech that so far as the 12-hour day is concerned, I support it."

"I do not agree with my friend the Hon'ble Mr. Dadabhoy that the mill-owners should have unrestricted license to work adults as long as they like."

The Hon'ble MR. DADABHOY : "Sir, you will permit me as a personal explanation to mention that that statement is entirely incorrect. During the debate in this Council in the month of January, and to-day too, I had made it explicitly clear that I did not want the labouring classes to be worked for more than 12 hours : I have been fighting for this principle."

THE PRESIDENT : "The Hon'ble Member must not exceed the scope of his explanation, and I have no doubt the Hon'ble Sir Vithaldas Thackersey will take note of that explanation."

THE HON'BLE SIR VITHALDAS THACKERSEY : "I accept, Sir, the explanation of the Hon'ble Mr. Dadabhoy, and I am very glad to see that he does not advocate more than 12 hours' work for adults, because if he had gone over the country he would have found that sometimes, in spite of all our ideas about liberty, we feel, when we see the hands working for 13 or 14 hours, that it is not at all just and fair to the work-people. I have gone all over the country, and in spite of my own interests in the industry, I have often felt that it was very hard to work adults for more than 12 or 12½ hours. However, there is only one remark of the Hon'ble Mr. Dadabhoy that I will refer to. He says that, if the Government are convinced that 12 hours a day must be the working day, it is quite straightforward to come and put 12 hours a day in the Act instead of by an indirect way. Well, Sir, I must make my position clear. I am not suggesting these amendments with the idea of what may be called indirect restriction; I am only extending the existing principle of the Act, and if, by extending the existing principle, the result comes to the same as a direct restriction, I do not see why Government should not accept my amendment in place of the direct restriction which has been objected to so strongly by my friend the Hon'ble Mr. Dadabhoy in spite of his desire that mill-owners should not have unrestricted license. There is no section in the English Act which provides for an interval of rest for adults; there an interval of rest is provided for young persons and children and women only. In the Indian legislature that principle has been admitted. After a particular number of hours, adults must get an interval of rest for food or drink, or for other purposes. The existing Act provides that there shall be at least a stoppage of half an hour between 12 and 2 in every factory. The Factory Commission altered that clause and said that we should have half an hour's interval after every 6 hours. The object was very clear under the old Act; mills must stop at 12 or half past 12 or 1 o'clock or half past 1. The Commission felt that, with the new conditions of working 12 hours a day, radical changes will have to be made in the actual working of factories. At present the usual system is for mill-hands to eat near the machines at about 9 o'clock or half past 9 o'clock; they go out whenever they like; they work whenever they like; there is practically no restriction on their liberty. The Commission naturally thought that as practically their recommendation amounted to 12 hours a day, some arrangements might be made by which the hour of interval should coincide with the convenience of the hands, that is, half an hour might be given between half past 9 and 10 o'clock in the morning so that all hands can take their meals at the same hour every day, so that, during the other hours, mill-hands may regularly be at the machines. If you give an interval at 12 o'clock, the hands will refuse to remain hungry till 12 o'clock. And it was with that object in view that the Commission laid down that there should be half an hour's rest after every six hours of work, naturally believing that it would be to the mill-owners' convenience and that it would enable the hands to get half an hour's rest at half past 9 or 10 o'clock, and another half an hour at half past 2 or 3 o'clock, and that the rest of the time they might be at the machines working and thus bring forward better working and also better production at the same time. With that object we introduced section 21 in the present form. The words are that 'in every factory there shall be fixed for each working day, at intervals not exceeding six hours, periods of not less than half an hour, during which all work shall be discontinued.' Now, my suggestion extends this principle. If the Indian legislature have admitted into the Indian Act that 'interval of half an hour is necessary after every six hours' work,' certainly it is quite fair to say that at least one hour is necessary after 12 hours' work. I will give you an instance. In flour-mills work is going on night and day for six days in the week. There are night shifts and day shifts. Suppose at the end of the day shift, at the end of 12 hours, a man that relieves the other does not turn up, what happens? The machines do not stop: other people who are working them

manage the machines for the time being, and the man who has worked for 12 hours goes home, takes his meal and turns up after an hour or an hour and a half and continues to work the machine until the other man turns up. If the other man does not turn up, the man, besides his day shift, takes the night shift also, and takes 12 hours' interval afterwards. On that principle, Sir, I propose that after 12 hours' work there should be an interval of one hour. Sir, it is in order to make my position very clear that I have moved this, and also on the ordinary ground of humanity. Well, if by the introduction of this principle and by the introduction of this section in conjunction with section 29, the effect is that you cannot get more than 12 hours' work, that is not a charge against us or against Government that you are introducing what you call an indirect way of restricting the hours of labour. Government's object is to get 12 hours' work: Government get it in conjunction with section 29. Why should direct restriction be introduced in this Act, which, I have said in my previous remarks, would deprive the Government itself of the power of protecting us, when Government would really believe that the protection of Indian industry was necessary against Lancashire or other interests? Our object is quite clear. We have not kept our object secret. We have plainly shown how that can be done without introducing the principle of direct restriction, and therefore I do not see why Government should not accept this proposition.

"That is one way which I am proposing now. Now, there is another way which was proposed by the Hon'ble Mr. Birkmyre, that is, if you get half hour intervals under section 21, then you reduce the hours of work to 12 by providing in clause 29 the starting time at 6. While that will have the same effect, I understand that the said amendment has fallen to the ground because there is opposition to the extension of the hours of children to 6½. Naturally the jute mill-owners may claim that as they are getting 13½ hours' work under the shift system, they are not prepared to reduce 13½ hours' work to 13 hours, if they do not get the advantage of employing children more conveniently. There is not the slightest doubt about it that, if anybody will suffer monetary loss by the Report of the Factory Commission, it will be the jute mill-owners. I see that there is a strong opposition from the Local Governments and from many of the Members here and naturally the Hon'ble Mr. Birkmyre may not place his amendments before this Council, as jute mill-owners are not prepared to agree to 13 hours' work without an extension of children's hours. I do not take therefore into consideration the Hon'ble Mr. Birkmyre's amendment although that is another way of doing it. Therefore, the only way which I think is proper and which the Government might freely accept, is the proposition that I have moved that at the end of section 21 (1) add the following words:

"Provided that, in the case of a textile factory, after it has worked for twelve hours, further work shall be discontinued for not less than one hour."

"As I have said, it does not alter the length of the day, it does not increase the working hours of men. It is only a method, and I leave it to Government to say whether they are prepared to accept this method or not."

The Hon'ble MR. DADABHOY: "Sir, I strongly oppose this amendment. The amendment proposed by the Hon'ble Mr. Birkmyre stands entirely on a different footing from the amendment proposed by my friend the Hon'ble Sir Vitthal Das Thackersey. If the Hon'ble Mr. Birkmyre presses his amendments I shall be glad to support him, because they are more far-reaching in their effects, and involve certain principles which are not covered by the proposal of my Hon'ble friend Sir Vitthal Das. I have said before that there should be no doubtful method or circuitous action in matters of administration. The law should be as plain and simple as possible; and if a principle is acknowledged and if it is right and proper, the principle ought to be respected, and should not be set aside by introducing an indirect method.

"My friend, the Hon'ble Sir Vitthal Das, has referred to the Report of the Factory Commission in which they recommended an indirect method



in preference to this direct restriction; but that method, too, is entirely different to that now suggested. What the Factory Commission recommended was the creation of a 'young persons' class which would automatically have a similar effect and restrict the hours of labour. I am not quite sure whether I should have supported that proposal. There are serious objections to that proposal; but because they suggested an indirect method which might appeal to some, there is no reason that this entirely new method should be accepted. Sir Vithaldas has asked why should the Government accept a novel principle in legislation, when by stopping the mills for one hour in the evening the same purpose can be served? But I think his proposal is equally novel, and I oppose it because, to my mind, it appears to be absolutely unpractical and meaningless. What mill would ever think of resuming work after an hour's stoppage in the evening? And if any work has to be done, it would be done by separate and entirely new shifts. Moreover, the conditions of labour in this country make it absolutely impossible during all the months of the year to have over-time or night work. Even in ginning factories and presses, where people perforce have to work extra hours, employers find considerable difficulty in obtaining labour, and in the case of textile factories it is practically an impossibility. I, therefore, think that it is much better for Government to boldly face the situation, and say, if they are going to have this restriction, that they would adopt the direct method which will leave no room for any doubt or evasion, and which will, at any rate, make the practical working of the Act smooth and easy. For these reasons I oppose this amendment."

The Hon'ble MR. MONTEATH: "Sir, my previous remarks have indicated that the Bombay Chamber of Commerce hold pronounced views favourable to the amendments put forward by the Hon'ble Mover.

"After the exhaustive explanation put forward by the Hon'ble Sir Vithaldas Thackersey, I should be only wasting the time of Council to merely repeat.

"I would however only emphasize that the proposal does not suggest or allow of prolonging the 12 hours day but legislates for it in a feasible indirect way.

"I therefore beg to support the amendment."

The Hon'ble MR. MUDHOLKAR: "As I have given notice of an amendment to section 21, which in terms is almost identical with that moved by my friend, the Hon'ble Sir Vithaldas Thackersey, I would, instead of moving mine separately, give my support to this. All I would say on this amendment, is that I support what my Hon'ble friend has put forward, that it is an effective thing and will achieve the object which Government have set before themselves, viz., of having a 12 hours' day without any attempt or possibility of aim at evasion. I do not wish to add now to what I have already said a short while ago that, as we would have only 13½ hours during which a mill can run with the same number of workers and since 1½ hours will be deducted from that working time, we shall be securing by what is called the indirect method the very object which Government have set before themselves. There is no resort here to what is called doubtful methods or circuitous action, as my friend the Hon'ble Mr. Dadabhoi has characterised the proposal of Sir Vithaldas."

The Hon'ble MR. CLARK: "There is one peculiarity about this amendment which if accepted would make it unique in the history of legislation. The wording of the amendment suggests an intention diametrically opposite to that indicated by the Hon'ble Member who has moved it. He has explained to us that it is intended to provide a 12 hours' day in factories, and I may say at once that, as regards the non-shift factories, so far as one can see, it would have that effect when taken in conjunction with section 29. But the wording of the amendment is—

'Provided that, in the case of a textile factory, after it has worked for twelve hours, further work shall be discontinued for not less than one hour.'

"This implies that after the one hour has elapsed you can start work again. I think an inconsistency like that is really a serious drawback. It is a well known principle of legislation that an Act should, as far as possible, bear its meaning on its face, and in this case the meaning really is almost the opposite of the effect which the Hon'ble Member wishes to produce. We seem somehow to have drifted into a discussion partly of the Hon'ble Mr. Birkmyre's amendments as well as of those moved by the Hon'ble Sir Vithaldas Thackersey. The Hon'ble Mr. Birkmyre's amendments will come on shortly, but I think I may say, as the point has been referred to, that there is this difference between the proposal of Sir Vithaldas Thackersey and that of the Hon'ble Mr. Birkmyre, that the latter is, so to speak, self-contained. If you shorten the 13½ hours' factory day by half an hour, then the operation of clause 29 produces a 12 hours' working day. In this amendment, after working 12 hours, you have to add an hour for rest and then you may start again."

The Hon'ble SIR VITHALDAS THACKERSEY: "I do not propose to omit section 29: I want to keep section 29."

The Hon'ble MR. CLARK: "I know the Hon'ble Member means to keep section 29; but that does affect what I have said. You have to work for 12 hours, then you have to add an hour's rest, which gets you beyond the limits of clause 29. No doubt after that hour's rest it is not likely that in practice work will be resumed; but in principle there is nothing to prevent its being resumed, and consequently the amendment does not safeguard the principle of a 12 hours' working day."

"A further difficulty arises in regard to factories working in shifts. If clause 28 is abolished, there will be no means of restricting hours of labour except through the sanction of the inspector being required to the system of shifts adopted. Now, in this amendment you have not only taken out the definite restriction to 12 hours contained in clause 28, but you also apparently lay down a principle that, subject to certain conditions, employes in textile factories may work more than 12 hours. If the inspector, in deciding whether or not to sanction a system of shifts, looks for guidance to this clause as the Hon'ble Member would wish to amend it, he will therefore find in it exactly the principle which you do not wish him to find. I think that is a very serious objection. Government would not object to accepting an indirect method of achieving their result in place of the direct method embodied in the Bill, if they were perfectly clear that the indirect method would produce the desired effect both as regards shift working and non-shift working. The great difficulty is to devise a system that would fit in the shift working, and I am afraid I cannot pretend to think that Sir Vithaldas Thackersey's amendment would meet the case. The Government therefore cannot accept this amendment."

The Hon'ble SIR VITHALDAS THACKERSEY: "Sir, in replying to this debate I am very glad that the Government have approached my amendment with an open mind instead of at once saying that they are not prepared to accept it. If you will permit me, Sir, I will be able to satisfy the Hon'ble Mr. Clark, if he is open to conviction, that it would be practically impossible for any factory to work more than 12 hours under my amendment. Section 29 says that no person shall be employed in any textile factory before half past 5 o'clock in the morning or after 7 o'clock in the evening. Suppose we begin at half past 5, as I explained in my first speech, we should have to close down at 11-30. We would re-start at 12 and would shut down at 6 o'clock. Under section 21 we have to give one hour's compulsory stoppage. This would come to 7 o'clock. Under section 29 the mill cannot start again. So in that way, so far as non-shift mills are concerned, it is quite clear that they cannot start work. So far as shift mills are concerned, I understand that there is some difficulty because this section 21 and also section 29 provide that nothing in sub-section (1) shall apply to any work performed by any person while employed in accordance with the system of shifts approved by the inspector. I understood, Sir, from the remarks which fell from the Hon'ble Mr. Clark when he referred to the Hon'ble Mr. Birkmyre's speech in the Legislative Council here on the 1st of March that he did not find any difficulty so far as the working of that

exemption was concerned. What was Mr. Birkmyre's amendment? Mr. Birkmyre's amendment was to start at 6 o'clock and close down at 7. For one-shift mills it was quite clear that under section 21 they could not work more than 12 hours. As for the shift system, what prevented unscrupulous mill-owners from working 13 hours in one shift? I understood from Mr. Clark's remarks on that occasion and from the general tenour of the discussion that the very fact that 'nothing shall be applied to shifts' meant that inspectors will take care that no hand worked for longer than 12 hours, or whatever the Government may desire. Well, if that is the real difficulty, and Government are still willing to co-operate with us in bringing this principle into operation, the best thing is to amend this proviso. We may add, 'no inspector shall approve of any shift unless every person in the shift gets interval in accordance with section 21.' This gives to each person according to section 21 an interval of half an hour within 6 hours. With reference to the Hon'ble Mr. Birkmyre's amendment, I thought the Hon'ble Member in charge was quite satisfied that the inspector would see that no one worked for more than 12 hours. He did not raise that question. Then on the same principle, if the proposal of the jute trade was acceptable to Government, this must be equally acceptable. I would, therefore, submit, Sir, that either we must accept this on the position taken up by the Government on the 1st March or alter this proviso by which each individual will get an interval according to section 21."

The Hon'ble MR. CLARK: "I am sorry there has been some misunderstanding in regard to what I said, or rather did not say, on the 1st March. I did not refer to non-shift factories at all; I did not mention them because the amendment did not touch any clause affecting them. The same misunderstanding which has affected the Hon'ble Sir Vithaldas Thackersey has also affected the view of some newspapers on the subject. As regards his further proposal—"

THE PRESIDENT: "The Hon'ble Member must not exceed the limit for explanation."

The amendment was put and negatived.

The Hon'ble SIR VITHALDAS THACKERSEY: "Mr. President, I beg to move the amendment which stands in my name, that after the word 'finishing' the word 'sizing' be added; but I think, Sir, that with your permission I may amend that the word 'sizing' should be put before the word 'calendering'. I may explain shortly the reason why I put in this word 'sizing'. It often happens in some of the mills that when a set is on, they work on the sizing, when the mill stops, by a small machine."

The Hon'ble MR. CLARK: "Sir, Government will be glad to accept the amendment."

THE PRESIDENT: "There is an alteration in the form in which Sir Vithaldas Thackersey's amendment should have been put to the Council. It should be as follows:—that in clause 21, sub-clause (2) (b), of the Bill as amended by the Select Committee, before the word 'calendering' the word 'sizing' be added."

The amendment was put and agreed to.

The Hon'ble MR. BIRKMYRE: "Sir, I rise to move the amendments which stand in my name, and trust I will not be considered out of order if I discuss all these amendments *en bloc* and especially after the discussion that has already taken place this morning; and notwithstanding what we have heard from the Hon'ble Sir Vithaldas Thackersey and the Hon'ble Mr. Clark in regard to the Government's view regarding section 5, I feel that I ought still to move my amendments.

"I find, however, in the replies of Local Governments which have been circulated to Hon'ble Members, so much misconception as to my proposals and in some cases, I am sorry to say, so much suspicion as to their motives that I take this opportunity of making my own position clear, and of stating to the Council the objects which I had in view in bringing forward these amendments



"I beg, therefore, the indulgence of the Council for a few minutes while I endeavour to explain, to the best of my ability, a technical and, as it has appeared to many, a somewhat complicated subject.

"My object in bringing forward these proposals were two.

"First, it seemed to me that the object of Government, namely, the limitation of adult labour to 12 hours daily, might be secured effectively without the direct restriction which has excited almost universal opposition among the industries concerned. So much has already been said and written on this subject, that it is unnecessary for me to enlarge upon the question at present; but in view of the Hon'ble Mr. Clark's remarks explaining my amendments on the 1st March, I hoped that Government would be prepared to reconsider the matter and delete these objectionable clauses, if the object aimed at, namely, that no person should be employed for a longer period than 12 hours in any one day, could be attained effectively by other means.

"Sir, I maintain that in non-shift factories the provision that work should not start before 6 A.M. and stop not later than 7 P.M. would, when considered in connection with the half hour stoppage obligatory after each 6 hours work, be fully effective in limiting the hours of working to 12. And as in the opinions received no contrary views have been expressed, we may, I think, be sure that this result will actually be obtained. This proposition has the additional advantage [and it is an advantage I claim over Sir V. Thackersey's amendment] that it shortens by half an hour the time between which the 12-hour day must be put in, and, therefore, renders it easier for the Inspector to see that the 12-hour day is not exceeded, besides being, I hope, some advantage to the operatives themselves in ensuring them a half hour later start.

"As, therefore, my amendments, in factories which work with only one set of adults, make the Bill absolutely effective in securing a 12-hour day for all operatives, and besides have various collateral advantages, I shall say no more about such factories.

"Now, my proposals are attacked by several Local Governments, because they are said to open the door to abuses in connection with what is called, by some, *nominal system of shifts*. In this connection I would quote from the Factory Commission Report, paragraph 11, page 9, and I need only quote a few words as follows:—

'We ascertained by *careful enquiry* that these shifts, though complicated at first sight, are understood by the operators and are *actually carried out*.'

"The Commission Report has been freely quoted, I notice, in the replies received from some Local Governments, and if those Local Governments lay so much stress on certain passages in this report, why not accept this very emphatic statement which is also contained therein?

"This objection to the shift system appears to me to be due to a misunderstanding which I hope the Council will allow me to attempt to clear away. The Bill as presented by the Select Committee permits working in shifts for a period of 13½ hours with women and children or for any period without them. The only difference made by my proposal is that the period of working in shifts with women and children is reduced to 12 hours, and who can say that this is not an improvement, as it allows an extra half hour at home?

"In view of the opinions which have been expressed concerning the shift system, I think it is appropriate to mention here some of the advantages which accrue to the operators working under this system.

"In the first place, persons employed in shifts are not worked for such long hours or so continuously as those employed in a non-shift factory.

"In a 13-hour factory day, shifts can probably be arranged to give each person 10 hours.

"Again, we have in Bengal two distinct classes of labour. There is the imported labour which generally resides in the busties adjoining the mills and who prefer to come in the morning, have a long interval in the middle of the day to cook their food, etc., and complete their day's work in the afternoon. There

is another class of labour which lives some distance from the mill, and by the shift system this class of labour arranges to come when the mill starts in the morning and leaves for good early in the afternoon. Or it comes later in the morning, say 9 o'clock, and works up to stopping time, with of course only short intervals during the actual time of work. It would be a distinct hardship for this class of labour if they were compelled to come at the starting time and remain until closing time.

"Incidentally, I would like to ask here, how the advocates of the single shift of 12 hours a day have arranged to work women for this period, when the Bill only permits of an 11-hour day for them ?

"It is true that I also proposed the elimination of section 28 of the Bill, and it is said that this will leave no restriction of the hours that can be worked by any individual in a shift ; but as no shift providing for hours of more than 12 has ever been framed and, if it were framed, would not be sanctioned by the inspector, the objection does not appear to me to carry practical weight, and I cannot see any reason why the executive power of an inspector in this connection would not be as effective as the statutory limitation which is so strongly objected to.

"I now come to the second purpose of my amendments. I wish to fix the hours of children in jute mills so as to fit in with the working hours of the mills.

"The Bengal jute mills, as Members of this Council are aware, invariably work on the system of shifts. The time during which mills work is not therefore limited to 12 hours daily. In practice the time during which the engine can run is governed by the hours of women and children. Now, in the Bill as published, the hours between which women and children may work are 5-30 A.M. to 7 P.M. My proposal is, that those hours should be changed to 6 A.M. to 7 P.M., giving a working day of 13 hours, and the hours for children, which were for textile factories only, 6 hours, should be increased to 6½ hours, in order to fit in with the proposed 13-hours factory day.

"Sir, in making these proposals, I have been accused of throwing overboard all considerations of humanity and wishing to exploit children for the benefit of jute mills in Bengal. I make an emphatic denial of these accusations. My interests in this country are, I hope, not of a transitory nature, and I am well aware that any attempt to exploit labour for the benefit of capital will only end in disaster, and though the opinion of the Factory Commission as to the physical condition of children in textile factories so frequently quoted appears to be against me, I will endeavour to show that there is something to be said on the other side.

"Now I will also make a quotation from the Factory Commission Report ; in paragraph 42 they write as follows :—

'Owing to the prevalence of abuses, which have already been fully discussed—the working of half time children for full time, the employment of children under age, the neglect to give regular intervals, and so on—it is difficult to form a clear idea as to what the effect of the present legal working hours, if faithfully adhered to, would have been on the general health and physique of the children.'

"This is a significant statement and no doubt the acknowledgment of those abuses has done much to damage the reputation of jute mills in Bengal. However, it would appear to me that, before condemning, it would only be fair to consider how those abuses arose. In my opinion they arose entirely from the want of proper machinery whereby the provisions of the existing Act could be rigidly enforced.

"To begin with, inspection was altogether inadequate. At the time the Factory Commission reported, Bengal shared one whole time inspector with the United Provinces and Eastern Bengal and Assam. Now there are two whole time inspectors for Bengal and Eastern Bengal and Assam only, and I anticipate that this staff will be even further increased.

"Again, under the old Act, certificates for children were not compulsory ; it can easily be seen how easily this led to abuses, while under the new Bill a

child cannot work unless he has a certificate of age and fitness from a special certifying surgeon who, I am glad to say, has already been appointed by the Bengal Government, and who has already certified the ages of, I understand, something in the neighbourhood of 14,000 children during the last year.

"In addition to the want of sufficient inspection and the want of proper certificates of age and fitness, there was under the old Act no means provided of identifying children. Anyone who has been through a jute mill employing hundreds of children will at once recognize the helplessness of any sufficient check even by the most virtuous managers under these circumstances.

"Under the new Act I very strongly supported in Select Committee the proposal, which was eventually carried and not without a certain amount of opposition, that a child must carry while at work either his certificate or a token giving reference thereto, and this provision will, I hope, make it possible for managers to control the hours of children's work in a very much closer manner than has been possible under the old Act. For those reasons I say that the abuses which undoubtedly existed when the Commission sat will not recur, and that only the hours allowed by law will be worked. It is, however, necessary that in order to prevent even this machinery from failing to achieve the object aimed at, that those hours should be fixed with proper care and deliberation and with due regard to the convenience of those responsible for the administration of factories. Can it be said that this is the case in the Bill as published?

"The Factory Commission in that very paragraph No. 63 which is several times quoted in the correspondence before you, write as follows :—

'In suggesting this period (of 6 hours for children) we have borne in mind the absolute necessity of proposing a limit of time which will fit in with the other limits which we propose as regards the hours of work for young persons and women and with our reasonable anticipation as to the probable hours of employment of adult males. This point, the vital importance of which was strongly emphasized by the Factory Commission of 1890, has not hitherto always been kept in view; but in all cases where it has been lost sight of, the limitations which ignored it have, as a matter of actual practice, been disregarded.'

That is to say, the Factory Commission fixed the hours of children at 6, chiefly in order to fit in with the 12-hour day and point out the vital importance of fixing them on this principle. At the same time and on the same principle they fixed the hours of women at 12 in order to fit in with the 12-hour working day. In the Bill before us, indeed, this position has been abandoned and the hours of women limited to 11, which I think is quite long enough. Incidentally I might say that they do not fit in with the other workers in non-shift factories, and the decision to keep women's hours at 11 necessitates and recognizes a system of shifts. But keeping before me the same important principle as the Factory Commission, I ask for an extension of children's hours to  $6\frac{1}{2}$  to fit in with the 13 hours during which mills will work under my amendments. If the amendments are not accepted, the hours of children will be 6 and the hours of the mill  $13\frac{1}{2}$ . I have explained the abuses which arose under the old Act and the precautions which have been taken to prevent a recurrence of these abuses, but I think it a matter of the first importance that no complications should be allowed which will make the carrying out of these safeguards in any way difficult.

"Under my amendments all difficulties in working would disappear. We would have two distinct shifts working at different hours, easily controlled and checked by means of the identification certificates; but under the Bill as it stands how are the children's shifts to be arranged? It is possible no doubt to frame and record a complicated system of over-lapping shifts which would entail 6 hours work for each individual child, but it will be extremely difficult to frame such an arrangement and still more difficult to enforce it.

"The retention of the 6-hour rule will almost certainly mean that it will be necessary to have 3 sets of children working  $4\frac{1}{2}$  hours each. It can be arranged in that case that the work will be more continuous than it is at present with only 2 sets, and possibly there will be no loss in the working



of mills; but there is one great objection to this arrangement of work, and that is, the great danger which will be incurred of a child working in two factories in the same day. Even now, cases have been known where a child has worked half the day in one factory and half the day (sometimes under a different name) in another factory. Such cases are rare, but when the day is divided into three, there will certainly be very great danger of this practice becoming general, and it seems to me that it is almost impossible to check it by any arrangement of inspection. If this is so, and I honestly think it is, the result will be that many children will not be working, as they would under my proposals, for  $6\frac{1}{2}$  hours, with of course suitable intervals of rest during the period of work, in one factory, but 9 hours in two factories. I hope this consideration will shed a somewhat different light on the apparently reactionary proposal to increase the hours of children by half an hour.

"There is one other consideration which I should notice, and that is this. Bengal is the only Province in which the shift system is in force and therefore the only Province where the mill will run for 13 hours, and where a  $6\frac{1}{2}$  hour limit for children is necessary. In other Provinces under the non-shift system the mill will work for 12 hours and the children will work half that time, so my amendments will make no difference in practice except in Bengal.

"Now the Government of Bengal with full knowledge of the circumstances of the case approve of the longer hours for children. The objections of other Governments are based on no practical considerations whatever. They do not say how the increase from 6 to  $6\frac{1}{2}$  will affect the children in the mills under their jurisdiction, if indeed it will affect them at all. Their judgment in fact is that of the arm-chair politician, and it is hard indeed for a practical man of business to speak of it with respect.

"There is only one more point to which I wish to refer. The Government of Bengal have referred to a strong minority which is opposed to my amendments. I am perfectly aware of this minority and know that they are in favour of the one-shift system. I believe I am right in saying this view is held by this minority almost entirely with the idea that it would be a more economical system of working our mills. They are most undoubtedly entitled to their opinion, and knowing the high ability of some of the advocates of the system I am not prepared to say now that they may not be right. What I do hold, however, is that this is not the question before this Council. Under the Act as I propose, to amend it there is no reason whatever why the advocates of the single shift system should not so work. It is perfectly certain that if they find it both the most economical system, and the most convenient from the point of view of the labour force, the present majority will follow them, and the alteration in the hours which I propose will have no more effect in Bengal than as I have shewn they will have in other provinces at present working on the single shift system.

"If, on the other hand, it were found that our labour, which has been so long accustomed to the recognized shift system at present in force in Bengal, does not care to adapt itself to the single shift system,—and I honestly believe it will not,—let us not hamper ourselves with an Act which will be in any way complicated or difficult to carry out either in the interests of mill-owners or the operatives themselves.

"Sir, I thank the Hon'ble Members for the attention with which they have listened to the explanation which has been my share of this somewhat intricate controversy.

"I await with interest the reply of the Hon'ble Member in charge of the Bill, and I hope that he will not be led away by any doctrinaire opinions, but treat the proposals from a practical point of view, and in that case I am confident they will secure his approval."

The Hon'ble MR. CLARK: "Sir, the Hon'ble Mr. Birkmyre has informed us that his amendments are intended to stand or fall together, and he has accordingly explained them as a whole to Council. I think this plan is greatly to the convenience of Council, and I propose in discussing them, with your

permission, to travel beyond the amendment which is now before us and to follow his example in examining his proposals as a whole. These amendments, as Hon'ble Members are aware, were not laid before the Select Committee appointed to consider the Bill but were put down at a somewhat late date just before the last sitting of Council at the beginning of this month. Coming as they did from the Hon'ble Mr. Birkmyre, the accredited representative of the jute industry on this Council, special importance attached to these proposals, and it seemed desirable that the Government of India should be in a position to obtain outside opinions upon them. I accordingly took the doubtless unusual step of making a brief statement on the subject in Council. I said that Government wished to call special attention to these amendments with a view to ample opportunity being given for their consideration and criticism not only among Hon'ble Members here but in the country at large; and I also said that they would lose no time in obtaining the views of Local Governments, and that the whole matter would be most carefully examined before the final stage of the Bill was reached. This procedure has been somewhat severely criticised in some quarters, and as to that there is just one thing to be said. I think we should have fallen short of our duty to an important industry if we had taken our stand on the late period at which these amendments were brought forward and had taken no notice of them until they were moved in Council to-day. Such a course would have been easy enough. To have done so would virtually have amounted to barring them out of discussion altogether, for there would have been no opportunity of giving them publicity, or of obtaining general opinions upon them. Government is often accused of aloofness, of unwillingness to listen to representations from the outside; but it is a new thing for it to be accused of lending too ready an ear to proposals from the representative of a great industry or of taking too much trouble to elicit expressions of opinion. At any rate, I think the course adopted has been amply justified by the result. We have had the advantage not only of obtaining the views of Local Governments, which of course could have been done through the ordinary channels, but also of seeing criticisms in the Press on either side of the question and of hearing the views of private individuals, including those of a section of the jute trade, which, in this matter, does not see eye to eye with the Hon'ble Member.

"But to return to the amendments themselves. The opinions of the Local Governments are, on the whole, unfavourable to the Hon'ble Mr. Birkmyre's proposals. The Punjab and Burma, it is true, are prepared to accept them. The Bengal Government, on the other hand, while not objecting to the proposed increase in the hours of children, does not consider that the later half-hour start is an adequate *quid pro quo* for giving up the specific restriction of hours in clause 28; Eastern Bengal and Assam take a similar view; and the Governments of Bombay, Madras, the United Provinces, and the Central Provinces object to the proposals, both as concerns adults and children.

"The Hon'ble Mr. Birkmyre, in the vigorous speech to which we have just listened, complains that the letters from Local Governments show in some cases misconceptions as to the nature and effect of his proposals. I think it must be admitted that, especially in relation to factories working in shifts, there has been some confusion as to the provisions of the Bill as it now stands and the alterations in these provisions which would be made by the Hon'ble Member's amendments; but two points stand out clearly from the correspondence—firstly, that most Local Governments—and it must be remembered that they will have the working of the Bill when it has passed into law—would not willingly dispense with the specific limitation of hours contained in clause 28, and secondly that the majority of them would strongly oppose any increase in the hours of labour of children.

"Now, it is most important to understand exactly what the effect of these amendments would be. The Hon'ble Member's objects, if I have understood him correctly, is, I think, twofold—firstly, to secure the elimination of clauses 28 and 31 containing the specific restriction of hours of operatives in textile factories and of the running hours of the machinery, to which, generally speaking, the whole textile industry, both jute and cotton, object; and, secondly,

in relation to the jute industry in especial, to make certain adjustments in regard to the effect of the Bill on the existing system of working by shifts—these adjustments including an increase in the hours proposed for children in the Bill, and at the same time, a shortening of what may be called the factory day, i.e., the period within which women and children are allowed to work. Now, as regards the first of these objects, viz., the elimination of clauses 28 and 31, the Hon'ble Mr. Birkmyre claims that his proposals will produce exactly the same result as these clauses, viz., that the working hours of adults will be limited strictly to 12. One is naturally tempted to ask why, if this is the case, it should be deemed desirable to eliminate the clauses at all. There is no doubt some apprehension in the textile industry that if clause 28 stands and hours under it are now fixed at 12, they might at some later time be further abbreviated to 11 or 10 by a very simple amendment of the Bill. I think the Hon'ble Mr. Dadabhoy in especial laid stress on that point to-day. Here, again, it is legitimate to point out that, assuming for the moment that the Hon'ble Member's proposals would secure a 12-hour day, it would be just as easy in future, if they were adopted, to secure an 11 or 10 hour day by altering the hours of starting work or increasing the statutory intervals of rest. It is not, in fact, very easy to see why, if restriction to 12 hours' working is generally accepted, there should be such a general objection to the specific provision now in the Bill: but that that feeling does exist is undeniable, and perhaps it is not necessary to insist too strongly on the illogicality involved in this part of the amendments being put forward at all. The Hon'ble Mr. Birkmyre proposes to secure his 12-hour day by altering the hour at which a textile factory is allowed to start work from 5-30 to 6 A.M., the hour of stopping work to remain, as in the Bill, at 7 P.M., and he proposes that a corresponding alteration should be made in the hours of women and children. The effect of this alteration would be to reduce the period within which the factory may work from  $13\frac{1}{2}$  hours to 13 hours, and the Hon'ble Mr. Birkmyre claims that in conjunction with the provision in clause 21 of the Bill, prescribing a compulsory half-hour's stoppage of all work after every 6 hours' working, his proposal would ensure that there would be a working day of 12 hours only. It may be admitted at once that, as regards factories working on the non-shift system, as do the cotton-mills at Bombay, this proposal is in one respect an improvement on the provisions contained in the Bill, since work would begin half an hour later, which in regard to children and women especially would be a distinct advantage. On the other hand, in making the 12-hour day depend on the strict observance of the half-hour intervals required under clause 21, it, in some degree, increases the responsibility of the inspector. The matter, however, is more complicated when we come to consider the question of factories working in several shifts, as in the jute industry in Bengal. Under the Bill as it stands, so far as adult male labour is concerned, such factories are entitled, if they like, to work the whole round of the clock subject to the inspector approving the system of shifts and subject to the provision of clause 28 that no man may work for more than 12 hours. But in practice, as the Hon'ble Member has explained, the labour of women and children is essential to the working of such factories, and their running time would therefore be limited in practice to the period within which women and children are permitted to work, i.e., the  $13\frac{1}{2}$  hours, between 5-30 A.M. and 7 P.M. The question therefore is whether, if the specific restriction of clause 28 is removed, the necessary sanction of the inspector to the system of shifts will be sufficient to secure that no individual will be worked for more than 12 hours out of the  $13\frac{1}{2}$  or out of the 13 to which the Hon'ble Mr. Birkmyre has proposed to restrict the factory day by his suggestion of starting work half an hour later. Now, we cannot, I think, get away from the fact that, even under the Bill as it stands, successful working will depend to a very large extent on the efficiency of the inspecting staff. That would be the case either under the Bill as it stands or if the Hon'ble Mr. Birkmyre's amendments were accepted. But under the Bill as it stands you have the sanction of a direct legal prescription for the 12-hour day, while, if the omission of clause 28 were carried, the limitation would rest solely with the inspector. I think, Sir, that in so vital a matter it would be a serious step to dispense with the statutory prescription. To do so might



tend to weaken the hands of inspectors and make it more difficult to ensure that the method of working by shifts was not abused.

"There remains the other object which the Hon'ble Mr. Birkmyre has in view in relation to the existing method of working by shifts in jute-mills. The limits of working which the necessity of employing women and children would in practice impose on jute-factories under the Bill as it now stands will be 13½ hours. On the other hand, under clause 32, children are only allowed to work in textile factories for 6 hours a day. Consequently, when a double shift of children has been employed, it will still be necessary to employ a third shift to fill up the remaining hour and a half. The Hon'ble Mr. Birkmyre proposes on the one hand to reduce the factory day to 18 hours by starting work half an hour later, and on the other hand to increase the hours of children to 6½, so as to enable work for the whole day to be accomplished with two shifts. The whole question here, Sir, is whether the starting work half an hour later can be considered an adequate compensation for the increase in the hours of children. It is a question on which it is exceedingly difficult for any one who has not personal experience of existing conditions in jute-mills to pronounce an opinion. I am quite sure that the Hon'ble Mr. Birkmyre would not have put forward a proposal of this kind if he thought that it would lead to injury and deterioration in the health of the children who are employed. If any one ever had any doubts on this point, I think he would agree that in what the Hon'ble Member said just now on this part of the subject he completely vindicated himself from any such suspicion. It is also a strong point in his favour that the Bengal Government, the Government of the province concerned, see no objection to the increase. But, on the other hand, we have the strong opinion laid down by the Factory Commission that 6 hours should be the absolute limit of children's work. Perhaps I may read a short passage from their Report :

'In view of the results of our investigations as to the physical condition of half-time children employed in factories, we are strongly of opinion that it is necessary to reduce the severe strain under which they at present work. We have explained our reasons for rejecting the suggestion to increase the age limit of this class, and the only practicable alternative which will secure our object is to reduce the number of hours for which they are now permitted to work. It is frequently stated that the children in a textile factory are not worked hard; that they enjoy numerous intervals of rest; that the work required of them is light and intermittent in character; and that they are not subjected to a strain comparable with that borne by the other workers. We do not entirely agree with these views. In all textile factories it is essential that the doffing should be done as quickly as possible; and the children undoubtedly work hard at each doff. Further, it is naturally the aim of the factory manager to arrange matters so that the children are employed as continuously as possible on doffing work; and, though they are usually alert enough to circumvent these intentions to some extent, yet the work is undoubtedly much more constant than has been supposed. In jute-mills the doffing work is very hard while it lasts; all the apparatus dealt with is heavier than in cotton-spinning; and the children are urged to the utmost speed, as the spindles fill very quickly, and doffing is much more continuous than in a cotton-mill. The doffers in the jute-mills work with wonderful rapidity. In cotton-mills, though the work is neither so hard nor so continuous as in jute-factories, the children work in rooms full of noisy machinery, sometimes badly ventilated, and frequently excessively hot. In our opinion there can be no question that the children employed in textile factories are subjected to a severe strain during their working hours; and we were specially struck with the tired and listless look of the children in factories which we visited at the close of hot working days.'

"These are weighty words, and I hardly think that the earlier passage of the report quoted by the Hon'ble Member, in which the Commission refer to the difficulty, owing to the prevalence of abuses, of assessing the effect on children of the legal hours if they had been faithfully adhered to,—I hardly think that this paragraph can be considered as in any large degree detracting from their cogency. On the other hand, there is the undoubted administrative objection to the Bill as it now stands that the hours of children will not fit in with the hours for which adult working in jute-mills is permitted. The Factory Commission, as the Hon'ble Mr. Birkmyre has said, insisted on the importance of this point. It would not be fair to the jute industry or to the Hon'ble Mr. Birkmyre's proposals to deny that this difficulty exists and is a perfectly genuine one; but I think Hon'ble Members will agree that in view

of what the Factory Commission wrote as to children's labour in India, the Government would take a serious responsibility if they agreed to an increase on the 6 hours' limit now prescribed in the Bill. It should also be said that a section of the jute industry itself favours the provisions in the Bill rather than those put forward by the Hon'ble Member.

"There are therefore two serious objections to the Hon'ble Mr. Birkmyre's proposals. First, as regards the hours of adult labour in textile factories, the proposed omission of clauses 28 and 31 makes the restriction of hours of labour depend, as regards non-shift factories, on the strict observance of other provisions in the Bill; and as regards multiple-shift factories, the omission of clause 28 makes the restriction depend entirely on the inspector granting or withholding his approval to the system under which the mill is to work. In other words, the responsibilities of the inspector will be increased and he will not have a definite statutory prescription behind him. Secondly, there is the proposed increase in the hours of children, the objections to which I have just stated.

"Sir, it is not for want of consideration that Government have come to the conclusion that they must reject these proposals. They have even, as I stated in an earlier part of my speech, gone outside the ordinary procedure in order that their full examination should not be prejudiced by the late hour at which they were brought forward. They are aware of the strong feeling existing in the textile industry as a whole in regard to the specific restrictions now to be placed on the hours of working of operatives in textile factories, and they recognise that the Hon'ble Mr. Birkmyre has put forward the proposals with a genuine desire to arrive at a settlement. But the objections which I have laid before the Council seem to Government too strong to warrant their acceptance, and they regret therefore that they must oppose the amendments."

The Hon'ble MR. BIRKMYRE: "Sir, I have to thank the Hon'ble Member. I beg to withdraw my amendments."\*

THE PRESIDENT: "The amendments are withdrawn."

\* (8) That in clause 28, sub-clause (b), of the Bill as amended by the Select Committee for the words "half-past five" the word "six" be substituted.

(9) That in clause 24, sub-clause (a), of the Bill as amended by the Select Committee, for the words "half-past five" the word "six" be substituted.

(11) That clause 28 of the Bill as amended by the Select Committee be omitted.

(14) That in clause 29, sub-clause (1), of the Bill as amended by the Select Committee, for the words "half-past five" the word "six" be substituted.

(15) That after clause 29, sub-clause (1), of the Bill as amended by the Select Committee, the following sub-clause be inserted, namely:—

"(2) Nothing in sub-section (1) shall apply to any person employed on—

- (a) the work of calendering, finishing, sewing or tailoring, or
- (b) the work of cloth-printing, bleaching or dyeing, or
- (c) any work specified in Part A of Schedule I

"(8) Where it is proved to the satisfaction of the Local Government that any work not specified in Part A of Schedule I is of an urgent nature, or is such as in the interests of efficiency is commonly performed while the main manufacturing process of the factory is discontinued, the Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt any person employed on such work from the operation of sub-section (1) on such conditions, if any, as it may impose; and"

that sub-clause (2) be renumbered (4).

(16) That clause 30 of the Bill as amended by the Select Committee be omitted.

(18) That clause 31 of the Bill as amended by the Select Committee be omitted.

(19) That in clause 32 of the Bill as amended by the Select Committee, for the word "six" the words "six and a half" be substituted.

(23) That in clause 51, sub-clause (2), of the Bill as amended by the Select Committee, for all words after the word "namely" the following be substituted:—

"five-thirty o'clock in the morning and six-thirty o'clock in the evening;  
six-thirty o'clock in the morning and seven-thirty o'clock in the evening; and  
seven o'clock in the morning and eight o'clock in the evening."

(24) That in clause 52 of the Bill as amended by the Select Committee, the word and figures "section 28" be omitted.

(26) That in Schedule I of the Bill as amended by the Select Committee, for the figures "30", each time they occur, the figures "28" be substituted.

(27) That for references to clauses 29 and 32 and the following clauses, wherever they occur, references to the corresponding clauses as renumbered be substituted.

The Hon'ble MR. GOKHALE : " Sir, I beg to move that to clause 23 of the Bill as amended by the Select Committee, the following sub-clauses be added :—

' (1) Every factory, in which more than twenty children between the ages of nine and twelve are employed, shall maintain an elementary school in proper condition for their benefit, and attendance at such school for not less than three hours every working day shall be compulsory in the case of each child so employed.

' (2) No fees shall be charged for the instruction given in such school.'

" Sir, I urge this amendment on the broad grounds of justice and humanity. The plea of justice is based on three considerations. In the first place, the very fact of the employment of these children in these factories disables them from availing themselves of the ordinary facilities that exist for receiving instruction at school. They have to be in the factories for certain stated hours and therefore they cannot suit themselves to the hours during which they can receive instruction in ordinary schools. Secondly, under what is known as the split shift system, their presence in the factories is not confined to the actual hours during which they have to work ; but they are expected to be about the factories, on the premises or somewhere near by, because their work is divided into two parts and they have to do part of the work in the morning and the other part in the afternoon. Therefore, the total time for which they must be present in or near the factories is really much longer than the actual period for which they have to work. And thirdly, the parents of most of these children are employed in the factories, and being so employed they are prevented from exercising that supervision over their children which ordinarily they might be expected to exercise. Therefore, Sir, on these three grounds of justice, I urge that the factory-owners should be made responsible for the education of these children. This is only fair, because the factory-owners make money out of the children, make money also out of the children's parents, and further work in their employ makes it impossible for the children's parents to exercise that supervision over the education and other interests of the children, which they might otherwise have exercised.

"Then, Sir, I urge my proposal on the ground of humanity. The sole justification for a measure like this is its humanity, and humane considerations must apply most to that section of the labouring population which is least able to take care of itself. Now, children are obviously the least able to take care of themselves, and therefore, if humane considerations are to apply anywhere and the State is to extend its protection on humane grounds to any section of the labour-population, that ought to be in the case of children. If the children are to be left to themselves, if after six or seven hours' work has been exacted from them they are to be turned into the street, there to get into the ways of mischief,—without anybody to look after them, their parents being engaged in the factories,—then I say the humanity on which the State bases itself in introducing this legislation is not extended to the children.

" I think, therefore, Sir, that some provision ought to be made for the education of the children employed in factories, after they have performed their work. The half-timers are between the ages of 9 and 14 ; I am quite willing that the provision to be made should be for children between the ages of 9 and 12 only. Of course, it is true, as the last Factory Commission has pointed out, that there is no compulsory education for anybody in this country. It is also true that the Commission has expressed itself against compulsory provision for the education of factory children ; but even so, the Commission has recommended very strongly that something should be done to ensure the education of these children and that local bodies and the Government and the factory-owners should all concert measures together for the purpose. The earlier Factory Commission, however—that of 1890—is emphatic in its recommendation that provision ought to be made for the education of the factory children, and I prefer its recommendation to that of the later Factory Commission. This is



what the earlier Factory Commission, which first provided that children should be employed as half-timers only, recommended :

'If our suggestion that children should be employed as half-timers is adopted, it will be found most important to provide some means of instruction during two or three of the spare hours that the children are off work. It is not for us to discuss here the advantages of elementary education, and general control and supervision of the rising generation of operatives. These are too obvious to require any advocacy from us. What we would say is that Local Governments and municipalities should meet mill-owners half-way and, as is done in regard to children under other circumstances, contribute half the cost of teaching factory children. Supposing, for instance, that a mill, employing 100 children, spends 16 rupees a month for two teachers; the Municipality or Government should double this subscription and provide two or more teachers. Looking at it from a pecuniary point of view, the expenditure is so trifling that we cannot doubt that schools would be started without delay in connection with all mills employing a large number of children. - It was not to be expected that schools started under the present circumstances could be a success. For it is impossible that a tired and jaded child (there was no class of half-timers before 1890) can work his brain to any useful purpose after his body has been thoroughly worn out with physical exertion.'

"Then, Sir, our friend, the Hon'ble Mr. Fremantle, in a very interesting report which he submitted sometime ago to the Government of the United Provinces on the condition of labour in Upper India, takes up this question and makes a very strong recommendation. I think he puts the case so well that I cannot do better than read to the Council what he says :

'The first step,' says Mr. Fremantle, 'is to compel observance of the law as to the employment of children. When the children are really employed for only half the day, their parents will, as a rule, be only too pleased that they should be under instruction for part of the rest of the time. The schools might be maintained by the mill managers on their premises and partly supported by grants-in-aid. With proper inspection, there should be no risk of the instruction given being insufficient. Later, if the school became popular, it might be possible to provide by law that no boy or girl under 14 should be employed in a mill unless he or she were under instruction. If this were the law, it would not be the first attempt at compulsory education in India. The Gaekwar has introduced it in parts of the Baroda State, (so it is not only I who refer to the analogy of what the Gaekwar has done; sometimes officials also do the same thing;) 'and the East Indian Railway Company in their fine estate of Giridih enforce attendance at school with excellent results. In Ceylon' (here, again, we have an official mentioning the example of Ceylon) 'wherever there are Government schools, education is compulsory, and the Commission on Elementary Education which sat recently recommended that planters should be held responsible for the instruction of the children of their Tamil coolies. Managers of mills and factories in Upper India have never yet had their attention specially directed to this matter, and it is quite time that a beginning were made.'

"What Mr. Fremantle says about managers in Upper India applies equally to managers all over the country. Sir, it is true that on the Bombay side some of the mills have made attempts to provide educational facilities for the children employed in those mills; but the last Commission has come to the conclusion that these facilities were not efficiently provided, and very often they were only a thin disguise for keeping the children on the premises in order that they might be worked more than half time. One essential condition, therefore, in connection with any educational facilities offered is that there must be efficient supervision and that supervision must be provided by the Education Department or whatever body it is that inspects and supervises local schools. But I think, Sir, the first thing to do in this matter is to throw a definite responsibility on factory-owners. It is not an unfair thing to expect, as I have pointed out, that the factory-owners, who make money out of the children, should hold themselves responsible for the education of those children. Of course, it is only fair that the Government and the local bodies should come to the assistance of the factory-owners; the cost may be divided among the three bodies—the factory-owners, the local body concerned, and the Government—in such proportions as may appear to be most equitable; but somebody must first be made responsible for the education of these children, and I think it should be the factory-owners. Even though there is no general compulsory law in India, it is necessary that there should be special provision for factory children for the simple reason that these children are disabled from availing themselves of the ordinary facilities that exist. I therefore trust that the amendment which I have moved will be accepted by this Council."

The Hon'ble Mr. DADABHOY : " Sir, I am in entire agreement with my friend the Hon'ble Mr. Gokhale as regards the spread of elementary primary education. I have supported him in this matter on two occasions previously in this Council; but I feel constrained to oppose him to-day. I endorse the opinion—and my views are already before the Council—that elementary education should be free and, under certain circumstances and under adequate precautions, should be compulsory as well. I gave him only the other day my cordial support. Therefore, whatever I say to-day should not be misunderstood. I do not hold any brief for the millowners of Bombay or of any other part of the country; but I do think that this proposal of my friend, the Hon'ble Mr. Gokhale, though well-conceived and emanating from a genuine desire on his part for the instruction of the youth of this country, is one which is not worthy of the Council's serious consideration. The matter was very carefully considered by the Factory Commission, and they, in paragraph 89 of their Report, which I shall take the liberty of reading, distinctly said :

' We do not consider that factory-owners should be compelled to provide elementary education for the children employed by them. We can see no reason why this particular obligation should be placed upon employers of factory labour only, and we know of no analogous provision in this country which could be cited in support of the proposal.'

" These words have my entire concurrence. I do not see why one particular class of manufacturers should be burdened with the additional responsibility of looking after the education of the youth of the country, which, to my mind, is primarily the duty of the State. It is impossible for these people to adequately look after the education of the boys who work in the mills.

" My friend, the Hon'ble Mr. Gokhale, remarked that humanitarian motives suggest that they should do so. I fail to understand this argument. If the plea of humanitarian motives at all holds good, I think it will hold good in every other department of business, in every other department of trade, in every other department of commercial or industrial activity; and I do not see why it applies with any greater force to the manufacturing industry. But what I fear is that, if this provision is adopted, it will defeat the very object of the Factory Bill, which our Hon'ble friend Mr. Clark is so anxious to secure. You will find that in some mills the presence of these boys will be taken advantage of, and they will be made to work longer than six hours, which is the statutory limit now provided in the Bill. Then again, the factory inspectors reside at long distances, and the staff of inspectors is also inadequate. They will not be able to control them. If you accept an amendment of this character, you will be placing a great deal of temptation in the way of the less scrupulous of these factory agents. If on no other grounds, I submit, on this ground alone, the amendment should not be accepted.

" I am aware of other grounds also. It is not fair to the factory-owners that this matter should now be taken in hand at this stage. This Factory Bill has been before the public for the last eighteen months, and my friend, the Hon'ble Mr. Gokhale, had ample opportunity of bringing this matter before the Council before now. He could have brought this matter to the notice of the Hon'ble Member for Commerce and Industry. I know that he did refer to this matter in Select Committee, but it was there only casually considered and dismissed. I think a provision like this, involving an important responsibility sought to be fixed on factory-owners, ought not to be accepted lightly. The large industrial centres have a right to express their opinion on the subject. That right they have been deprived of, and I do not think it would be prudent for Government to accept this amendment without consulting the mill-owners of Bombay, Cawnpore and other important industrial centres. I therefore submit that the amendment should not be accepted at this stage. I am also of opinion that this is a very inopportune time for introducing such an amendment. My Hon'ble friend Mr. Gokhale has already placed before the Council an important Bill for the spread of elementary instruction, and he ought at any

rate to have waited till the decision of the public had been obtained on it. Moreover, this amendment, if carried, would in my opinion also conflict with one section which he has provided in that Bill. If my memory does not fail me, it is provided in that Bill that no employer of labour shall entertain the services of children of school-going age under the age of 10 years, while in this Bill, by this amendment, he proposes to fix the limit of age between 9 and 12. In my opinion this amendment is not judicious, and I do not think this Council would be acting rightly in fastening a responsibility on the mill industry without giving them a chance of being heard on the subject. I therefore oppose this amendment."

The Hon'ble MR. MAZHARUL HAQUE: "Sir, I have great pleasure in supporting the amendment of my Hon'ble friend. I support it on two grounds. One is that it is a move, however modest it may be, in the direction of that general scheme of universal primary education for which I have so often pleaded in this Council. The acceptance of this amendment will go to a certain extent to pave the way for that object. Secondly, I support it because I consider it only right and just that those people who have grown rich or are in the process of growing rich by the labours of these children should contribute a little to the moral elevation of these poor little mites. This is a responsibility which every consideration of humanity and justice throws upon their shoulders; and I hope that they will not shirk it but will cheerfully accept it. My Hon'ble friend Mr. Dadabhoy has said that it is the duty of the State to educate children. Well, Sir, I am sick of hearing of these duties of the State. What are our duties? Have we got any duties at all? Is everything to be thrown upon the State? Well, I submit that this is a duty which ought to be cheerfully borne by the capitalists."

The Hon'ble MR. MUDHOLKAR: "Sir, as one who is, though in a small way, connected with the employment of these children in factories, I think it my duty to support the amendment moved by the Hon'ble Mr. Gokhale. I realize, Sir, that it is the duty of every educated man in this country to do everything that lies in his power to promote the well-being, both material and moral, of the masses. Unless the masses are improved, the country can make no advance, and its condition cannot improve. The duty of the State also in this matter is very clear. The Government have, according to the view of the people, undertaken this legislation for securing the material well-being of the large mass of humanity which is aggregated in these factories. I would put it to them whether it is not equally their duty to help in the education, in the better fitting up for the future struggles of life, of the young persons who are taken there at a tender age when they ought to be in school or be allowed to play about. I think, Sir, those who employ labour should take a larger view of their duties than most of them do. Indians at any rate owe it to themselves to support a proposition of this kind. My Hon'ble friend Mr. Haque has already referred to the duties which lie upon us, to do something for ourselves, and not to expect the State to do everything for us. Here is a matter where people who derive considerable profits from the labours of these boys can well take the initiative. Let them not take too selfish and too personal a view of the relations between them and their employés. Let them realize what they owe to the children whom they bring to these factories, on whose labours it is that they obtain their riches. Therefore, as a small employer of labour, I support the motion most heartily."

The Hon'ble MR. MADGE: "Sir, is not this proposal a sort of resurrection of the corpse of free and compulsory education that was discussed the other day, and sent down the country for opinion embalmed in the provisions of the Hon'ble Mr. Gokhale's Bill? Perhaps I should say that it is rather a revival of the Hon'ble Babu Bhupendranath Basu's selective principle which did not find a single supporter in this Council; practically it is the selective principle



applied to factories. Now, if it were merely a question of factory-owners parting with some of their profits for the sake of children, I would warmly support it. But the question is a larger one. For, in discussing the question of the occupation of children everywhere, it has been wisely objected that children should not be kept employed for more than six hours, and really, apart from the special temptation into which particular classes of factories would be led, the mere fact of adding three hours to the six during which children would be kept under compulsion is, I think, a fatal sanitary objection to this proposal. Sir, I am not at all sick of hearing the statement that it is the duty of the State to educate the masses. This principle was laid down fifty or sixty years ago and was never departed from, and I think no one is in such a good position to deal with a problem of this kind as the State itself. Only a good deal of preliminary examination and enquiry are necessary before operations are begun, and, as I said the other day, considering that we have a new Education Department which is certain to give its attention to this subject, I think we may very well await its proceedings before forcing a thing of this sort on this Council."

The Hon'ble MR. CLARK: "Sir, Government, as I am sure the Hon'ble Member will have anticipated, are in full sympathy with the object which he has in view, which I take it is that children should not be precluded by their occupation in factories from receiving a proper elementary education. That being so, the real question is whether what he proposes is the best way to secure that end, and there, I think, doubt must arise. In the first place, if you compel factories to set up schools within their borders, it will not be at all easy to secure efficiency. That was touched upon in the Factory Commission's Report and especially in the evidence of the Chief Inspector of Bombay, Mr. Engel, who, although on general grounds he favoured this suggestion that factories should have schools, laid stress on that particular point that efficiency would be very difficult to secure. A further point is whether it is really fair to the factories to place this burden upon them. At present education is not compulsory in India, yet under this proposal you will be selecting one body of employers and making it compulsory for them to provide education for a part of their employes. The Hon'ble Member has referred to what the East Indian Railway have done in Giridih for the education of the children of their employes. I can speak of that because I was privileged to see something of their work. It is no doubt a very great and commendable achievement, but it does not in the least follow because one company has been far-sighted enough to see the advantages of having a thoroughly educated class to draw upon, that necessarily other companies on whom a system of education is forced will take the same pains to make it good and efficient. Then there is the further difficulty that it may lead to abuse of the law in connection with the limitation of the hours of work for children. I must say that I cannot help agreeing with my Hon'ble friend Mr. Dadabhoi that if an inspector were in the offing, you would be apt to find the factories suddenly empty and the school suddenly filled. There is that danger. I do not think it is one which we can shut our eyes to. Personally, if the time were ripe for it, I would rather see something on the English system by which a child cannot be employed unless he can show a certificate that he has been attending a recognized school. There would be great difficulties about a system like that at present in India, because I understand there are not yet sufficient schools; but certain Provincial Governments—the Governments of the United Provinces and of Bombay—have already moved in the matter and the Government of India will keep it prominently in view of the Local Governments. I think that is really as much as we can do at present. I am afraid I cannot accept the Hon'ble Member's amendment."

The Hon'ble MR. GOKHALE: "Sir, I quite understand the position of the Government and I really did not expect that the Government would do more than urge on the Local Governments the necessity of looking into this matter and doing what they could do secure reasonable facilities for the education of children employed in factories. Sir, the whole question has to be considered from a higher standpoint than that which has been taken by some of the speakers who have criticised my proposals. My Hon'ble friend Mr. Dadabhoi expresses the fear—and I am surprised to see that the Hon'ble

Mr. Clark concurs in that—that if educational facilities are provided for children employed in the factories, the evil of children being overworked will be facilitated. As a matter of fact, I think, if that is done, the evil will be reduced, because children will be definitely engaged in school, instead of merely loitering about, doing nothing. Of course, I insist on the essential condition that there should be efficient supervision; and if efficient supervision is provided, there would be no risk whatever. It is when there is no school, and the children are asked to remain on the premises or close by the factories, that unscrupulous managers would find it easy to get them to work for longer hours than the law allows, under one pretence or another.

“As regards the Bill, to which Mr. Dadabhoy has made reference, let me point out that the Bill has not yet become law and it will have to encounter such opposition as my Hon'ble friend offered to some of the provisions the other day, before it becomes law; and until it becomes law, it is no use speaking of it as if it was law. Moreover, even if my Bill passes, its application will depend upon the discretion of local bodies, whereas if this amendment is accepted, automatically wherever there is a factory population of children, schools will come into existence. Again, my Bill provides only for children between the ages of 6 and 10, whereas this amendment urges that facilities should be provided for the education of children up to 12. At present children from 9 upwards can be employed in factories; if my Bill comes law, the age limit of employment will be raised by one year, as was proposed this morning by my Hon'ble friend Mr. Quin.

“The Hon'ble Mr. Madge spoke of the corpse of my Bill being resurrected in this amendment. The expression used by him suggests a hope on his part that my Bill is dead. Well, we shall see about that. Sir, my object in bringing forward this amendment was to emphasize the necessity of the Government attending to this matter, and to present to the Council the view which I have submitted. That object has been attained by this discussion, and as the Government are unable to accept my amendment, I do not wish to press it.”

The amendment was withdrawn.

Amendment No. 12\* was withdrawn.

The Hon'ble MR. MUDHOLKAR moved that to clause 28 of the Bill as amended by the Select Committee, the following sub-clause be added, namely:—

“(2) Nothing in sub-section (1) shall apply to any textile factory which undertakes to work by daylight hours only, to have no electric installation and to observe the following conditions:—

- (a) that on no day in the year will any person be employed for more than 12 hours and a half,
- (b) that the hours of commencement and end of work during each period of fifteen days are at the beginning of each calendar year notified to the inspector, and
- (c) that the average period of work for each day in a year shall not exceed 12 hours a day;”

the existing clause being renumbered 28 (1).

He said: “Sir, this amendment relates to a question which was brought before the Select Committee at a rather late stage of its prolonged deliberations, and though the Hon'ble gentlemen then in charge, Mr. Robertson, expressed his inability to accept it, he was, if I understand him correctly, in considerable sympathy with it and felt that it was one which deserved, and which he thought would receive, the sympathetic consideration of Government. Sir, the proposal does not in any way involve any departure from or violation of the principle which the Government have embodied in clause 28. Their great object is to secure the enforcement of a 12-hour day all through the year. This principle is not in any way sought to be circumvented or in any way foiled by what is proposed. Sir, as you are well aware and as the Council is well aware,

\* That for clause 28 of the Bill as amended by the Select Committee the following be substituted, namely:—

“In every textile factory, there shall be, after it has worked for twelve hours, an interval of not less than one hour during which all work shall be discontinued.”

the Factories Commission of 1908 deprecated direct limitation by legislation of the hours of adult male labour, and have strongly urged in paragraph 44 that if this object can be secured by an indirect method, every effort should be made to do that. This was what we sought to do by our previous amendment which has just been withdrawn—the amendment of Sir Vithaldas Thackersey. Now, the fate with which that amendment has met leaves little room to hope that this will fare better. I think it my duty, however, to make an effort once more and again to appeal to Government and to this Council, whether it is not desirable that even when this matter—the principle of which is commendable but the form of which is not acceptable in most quarters and about which there is general opposition amongst the people—whether this thing should not be presented to them in as acceptable a form as possible. Now, Sir, the principle of working by daylight hours was one which was urged very strongly before the Factories Commission, and they admitted that there was much to recommend it. They also admitted that the average working would come to about less than 12 hours a day—about 11 hours and 45 minutes or something like that. This would be the case in the Madras Presidency, the Bombay Presidency and in Central India where most of the cotton-mills are situated. In the northern part of the country, however, the hours in the hot season and the early part of the rainy season would be longer, and it is that which appeared to the Factory Commission as the weak point of the case. They pointed out that in certain places the working hours would extend to  $13\frac{1}{2}$  and  $14\frac{1}{2}$  hours, and that was the feature in the proposal then made before the Factories Commission which they considered undesirable. Now, Sir, that objectionable feature of the then proposal is now eliminated in what I have placed before the Council. Sub-clause (a) says that on no day in the year will any person be employed for more than  $12\frac{1}{2}$  hours. So the serious defect which existed in what was urged about daylight working at that time has been removed from the present proposal, and as we do not wish to exceed the limit of 12 hours, and as the result of the proposal will be to have something like 15 minutes less on the average every day for the working men, it is one which in no way violates the principle which section 28 lays down and which I would ask Government to accept in the case of those factories which give the further guarantee that they will not use any artificial light.”

The Hon'ble SIR VITHALDAS D. THACKERSEY : “ Sir, I beg to support the amendment moved by my friend the Hon'ble Mr. Mudholkar. In fact, later on an amendment to the same effect stands in my name, and if this is passed it will not be necessary for me to move that amendment. It will be in the recollection of the Council that I touched on this matter when the Bill was referred to the Select Committee in January. My principal reason in supporting this amendment is this. No one has said that any abuses have occurred or are occurring in any daylight factories. All the abuses of long hours and sweating of hands occur in factories provided with electric light, and it is not right that Government should come forward and interfere with the conditions of factories working for such a long number of years without sweating the hands. I may refer to the speech of the Hon'ble Mr. Harvey when he moved the Bill. He said :—

‘ The conditions which prevailed in 1891 have been radically altered. Had all factories continued to work daylight hours, it is improbable—I give my own opinion for what it is worth—that Government would have been called on to interfere afresh. But under the changed conditions it has been proved beyond possibility of doubt that abuses may arise which cannot be allowed to go unchecked.’

“ Now, certainly there are different sets of factories. There are factories working under a system of electric light and there are factories working under the ordinary daylight system, and I cannot understand how abuses can prevail in the factories working under daylight hours when these abuses could only come in where electric lights were introduced. The Hon'ble Mr. Mudholkar's amendment has provided that this clause is to apply in cases only when the mills are not provided with electric lights. Then, Sir, there is another reason. We have often been told in this Council—names



have been mentioned—that the Hon'ble Sir Henry Proctor is strongly in favour of shortening the hours, that Mr. Bezonji Dadabhoy of Nagpur is also in favour of shortening the hours of labour and against the sweating of hands. Now, both of these gentlemen have given evidence before the Factories Commission that they are of opinion that the best system of working Indian textile mills is to work under daylight hours. The Bombay Chamber of Commerce in their letter to Government in 1908 said this. (This letter was signed by our friend Sir Henry Proctor. The letter is dated the 10th September 1908, after the report of the Factories Commission was submitted and when the Government of India circulated the official report of the Factory Commission for the opinion of different bodies):

'In conclusion, while recognising that the question of daylight hours is a matter which would require different treatment in different districts owing to the natural variations of the hours of daylight, my Committee are of opinion that certainly in Bombay, which is the largest and most important factory district in India, mills should be allowed the alternative of working daylight hours. Their reasons for this suggestion are that such daylight hours average 12 hours and 6 minutes for the whole year, and that it was not until the introduction of electric light that any question arose with regard to excessive hours being worked. Many mills in the Bombay Presidency still work daylight hours, and it would be a distinct hardship on them and their hands who, my Committee understand, much prefer these hours, if they were compelled to change their system for one which would include working by artificial light. My Committee are aware that this means longer hours in the hot weather, but they do not consider that this constitutes any hardship as the health of the workers is much better in the hot weather than in the cold season, and therefore it is to their benefit to have the shorter hours in the latter season.'

"Then the principal objection that was raised in this Council and also elsewhere was that the conditions of different provinces are different and therefore what may be suitable for the Bombay Presidency may not be suitable for the Punjab or other provinces where the longest day is about 14 to 14½ hours. Now, Sir, in the first place, Punjab knows what is best for itself, and all the mills, which are only nine in number, have been provided with electric light, and therefore there is not the slightest reason that they should revert to the old system and work 14 hours in the hot weather and perhaps 10 hours in the cold weather and make their average about 12 hours when it will pay them to work under the present system. It is in the hot weather that they get their worst spinning conditions, and as they get their best spinning conditions in the cold weather it is quite natural that they will take the full advantage of the cold weather hours. The conditions are reversed in Bombay. In the cold weather the east wind blows and makes spinning difficult, and in the hot weather we get the western breeze and the conditions of spinning are better. So each province has to be judged from the conditions prevailing in that province, and after all under this amendment (I am sorry to see it is not mentioned in the Hon'ble Mr. Mudholkar's amendment but in my amendment—I have made that point very clear) we want to give the discretion to Local Governments, that Local Governments may allow factories to work daylight hours under certain conditions. The Government of India have always trusted Local Governments—whenever it suited them—and in this matter they might well trust the Local Governments to do best in the interests of the industries working in their district. I am not giving the power to anybody and everybody, but I am giving the power to Local Governments, and if the Government of India find that the Local Governments are not exercising their powers in the right way, they have always the power of dictating to Local Governments.

"Then, Sir, we have often been told that everybody speaks for the mill-owners but no one speaks for the mill-hand. In this case the mill-hands have expressed their opinion in a most decided way. When with the Factory Commission I was going round taking evidence of the hands in their own houses: we examined the hands very minutely and they expressed their opinion in a quite decided way. I need not take up the time of the Council by reading extracts. I think the Hon'ble Member in charge of the Bill will admit that as far as the facts are concerned hands have said and said distinctly that instead of working by artificial light and keeping themselves inside the factory in mill till 7 o'clock and getting home in cold weather

after coming out of the hot room—they do not want that kind of condition to work in—they prefer to work an hour or a little longer in the hot weather and to get home by daylight. If we introduce artificial light, they will have to remain in the mill premises an hour longer. Some of them have to go two miles or more and have to walk that distance in the dark during the cold weather. The daylight hours will average during the year 11 hours and 49 minutes per day. So I do not think that anybody will work ten minutes less intentionally in order to get a little longer working in the hot weather. It will pay all of us to work by electric light and work 12 hours regularly a day. In Madras there are no mills fitted with electric light. Why come in the way of those whose natural conditions are such that they cannot work much longer? Places like Madras, where the natural day is practically 12 hours the whole year round, and places like Ahmedabad, where the hands work daylight hours. I will make myself clear. I am not putting this amendment with the idea that this is in any way better to the mills than working by electric light. I have said that working 12 hours a day regularly with electric light will pay us better. But I maintain that Government has no right to come in and dictate to the people that they shall not allow daylight working unless they can show that abuses have prevailed there. I hold, on principle, that Government should leave it to the good sense of the factory-owners rather than compel them to put electricity and work under artificial light. For these reasons the Government of India, I hope, will see their way to accept this amendment."

The Hon'ble MR. GOKHALE: "I beg to support this amendment and I do so for two reasons. I think, Sir, that in the interests of the operatives themselves such an arrangement would be better than the one proposed by the Government, of a rigid 12-hour day throughout the year. I am quite sure the operatives themselves would prefer this arrangement because they would understand it better. Our operatives are too ignorant to understand time quite accurately; they do not carry watches with them, whereas in regard to sunrise and sunset those are broad facts which everybody can understand. Therefore, in the first place, the daylight arrangement would be better from the standpoint of the operatives. Secondly, it is less liable to abuse. Abuse is possible only during three months when the days are longer than 13 hours. If efficient inspection is exercised during that time, the evil of abuse will be reduced to a minimum. But for nine months in the year there is no question of any abuse, since there would be no electric fittings,—and the Government should insist upon this,—and therefore no factory working by daylight can work for more than 12 hours during that period even if it wanted to. On the other hand, with electric fittings and a rigid 12-hour day throughout the year, inspection will be required all twelve months. For these reasons, I support the amendment."

The Hon'ble MR. CLARK: "I think, Sir, it must be admitted at once that this proposal is a great improvement on the other more artificial schemes which have been suggested for securing restriction of hours of labour. It does seem at first sight a very reasonable thing that working should be limited to the actual hours of daylight. The proposal which was originally put forward before the Factory Commission admitted of unrestricted working in the summer months, and that of course was open to the very serious objection that the longest time of working was at the hottest time of the year and in some mills would extend to 14 or 14½ hours a day—a proposal which Government could not consider for a moment. The present amendment shares to some extent in that objection. The proposal is that the maximum amount of employment should never exceed 12½ hours in the year and that the average period of work should not exceed 12 hours. But you will still have your longest time in the hottest weather. That is still, I think, a very serious objection. Twelve hours, after all in any country would be considered a very long time to work; it ought to be considered even longer here where climatic conditions are not suitable to long-sustained effort. Towards the end of the day every half-hour must be considered to count, and the real difficulty which prevents this proposal being accepted is that it entails that extra half-hour being worked in the hottest time of the year.

Both the Hon'ble Sir V. Thackersey and the Hon'ble Mr. Gokhale have made a good deal of the point that the operatives themselves would prefer it. Now, on that point there is a great difference of opinion. The Factory Commission, as I think Hon'ble Members must be aware, took a different view. The operatives were examined by members of the Commission personally, and this was the conclusion they came to. The Commission say :

'The point is in the last resort one of individual opinion, but we do not agree with Sir V. Thackersey that he has correctly represented the views of the majority of operatives on this question.'

"I admit that it must be—the Commission themselves admitted that it must be—to a large extent a matter of opinion; but I do not think the Government can well go outside the opinion expressed by the Commission. In any case, as the Commission further point out, it is exceedingly likely that the operatives may not understand what is meant by working with electric light. To them electric light means excessive hours. We trust that when this Bill is in operation they will find that it does not mean excessive hours. In Bombay, no doubt, daylight working would make very little difference; but it is hardly necessary for me to remind Hon'ble Members that India is a very large country in which the climatic conditions differ widely in different regions. When you go further north you get longer summer days, and you will then get your full 12½ hours working in the hot weather.

"Then there is another point to be considered. This proposal is put forward—I say it in no spirit of criticism—mainly in the interest of the mills. Mill-owners would prefer it to having direct restriction. But if the figures are worked out, it is not apparent that any substantial advantage would accrue to mill-owners by the permission to work daylight hours with the limitations imposed in this amendment. The average hours for a mill working daylight hours with a limit of 12 hours per day, and secondly the average hours for a mill working daylight hours with a limit of 12½ hours, have been roughly worked out on the basis of the longest and shortest day given for each centre in the Factory Commission's Report. The result is that in Madras under the first head the average working day would be 11 hours 51 minutes, and under the second head 12 hours; in Bombay under the first head 11 hours 44 minutes, and under the second head 11 hours 53 minutes; in Ahmedabad 11 hours 43 minutes and under the second head 11 hours 53 minutes. It is difficult to believe therefore that the concession of 12½ hours working in summer would be of very great value.

"Then there is another administrative difficulty which has not been touched upon. We have heard a good deal to-day of the necessity as far as possible of making women's and children's hours fit in with those of adult labour. It has not been actually stated, but I suppose in a scheme of this kind it is proposed to make the hours of children fit in with those of adults by working them for half the time which adults will be working on any given day. Consequently they will have to work 6½ hours when the adults are working 12½ hours; and this will be at the hottest time of the year. The same objection therefore applies as in the case of adults. There is also the difficulty of inspection. You have to average your 12-hour day over the year and you will get fractions of an hour and even odd minutes. It will be exceedingly hard to see that these fractions and minutes are duly observed. I am afraid that Government cannot accept this amendment."

The Hon'ble MR. MUDHOLKAR: "After the reply of the Hon'ble Member for Commerce and Industry I should not be justified in taking up the time of the Council; but I will only make one or two remarks. The hottest days in the year are also the most healthy days in India; that is all I need say in regard to the half-hour which it is pointed out they will have to work in May, June and July. The days are hot, but these are the days when mortality and sickness go down very much, except when there is an epidemic.

"Then another point as to the administrative difficulty in regard to the inspectors. Well, Sir, that is an administrative difficulty which exists every day with the 12-hour day. It will exist for a much longer time than it would



otherwise exist if the proposal which I have brought forward were accepted. There will be an electric installation in every mill. What is there to prevent them working those people every day for 12½ hours or even for 13 hours? The objection pointed out by the Hon'ble Mr. Clark is one which would apply as much if there is a rigid 12-hour day, as if the system is made elastic as I propose.

"But there is one thing which has not been adequately dealt with by the Hon'ble Mr. Clark, and it is this. Why should the mills in the mufassal which have not yet put up any electric installations, be as it were compelled to do so? That is an aspect of the matter so effectively pressed by my friend Sir Vithaldas Thackersey which deserves consideration. Some do say that every one would put up an electric installation and we must have it. Sir, in this country, whenever anything of a general character is proposed by the popular side, we are told that India is a continent, is a congeries of nations living in one continent, and that we should not seek to have a rigidly uniform system throughout the country. While not agreeing with those who bring forward this objection ever and anon, I would ask, is it fair that the Act should practically compel every factory-owner to put up an electric installation?"

The amendment was put and negatived.

THE PRESIDENT: "I understand the Hon'ble Mr. Birkmyre withdraws his amendments Nos. 14, 15 and 16."\*

The Hon'ble SIR VITHALDAS D. THACKERSEY: "I do not propose to move this amendment† in the circumstances. I beg to withdraw it."

THE PRESIDENT: "Then we come to amendment No. 18,‡ which is to be moved by three Hon'ble Members. I presume that also is withdrawn."

The amendment was withdrawn.

Amendments 19§ and 20|| were also withdrawn.

The Hon'ble MR. CLARK moved that to clause 37, sub-clause (2) (j), of the Bill as amended by the Select Committee, the following words be added, namely:—

'and the provisions to be made for the protection from danger of persons employed in attending to the machinery or boilers.'

He said:—"This amendment is consequential on the amendment of clause 18 which has already been passed, and I ask that it may be accepted at once."

The amendment was put and agreed to.

\* (14) That in clause 29, sub-clause (1), of the Bill as amended by the Select Committee, for the words "half-past five" the word "six" be substituted.

(15) That after clause 29, sub-clause (1), of the Bill as amended by the Select Committee, the following sub-clauses be inserted, namely:—

"(2) Nothing in sub-section (1) shall apply to any person employed on—

(a) the work of calendering, finishing, sewing or tailoring, or

(b) the work of cloth-printing, bleaching or dyeing, or

(c) any work specified in Part A of Schedule I.

"(3) Where it is proved to the satisfaction of the Local Government that any work not specified in Part A of Schedule I is of an urgent nature, or is such as in the interests of efficiency is commonly performed while the main manufacturing process of the factory is discontinued, the Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, exempt any person employed on such work from the operation of sub-section (1) on such conditions, if any, as it may impose;" and

that sub-clause (2) be renumbered (4).

(16) That clause 30 of the Bill as amended by the Select Committee be omitted.

† That in clause 30, the words and figures "section 28 or", each time they occur, be omitted.

‡ That clause 31 of the Bill as amended by the Select Committee be omitted.

§ That in clause 32 of the Bill as amended by the Select Committee, for the word "six" the words "six and a half" be substituted.

|| That after clause 32 of the Bill as amended by the Select Committee, the following clause be added, namely:

"(3) The Local Government may, subject to the control of the Governor General in Council, exempt any textile factory which undertakes to work by daylight hours only, and not to use artificial light, from the provisions of sections 28 and 31:

"Provided that the largest working day in any such factory shall not exceed twelve and a half hours and the average working in such factory during the whole year shall not exceed twelve hours a day."

The Hon'ble SIR VITHALDAS D. THACKERSEY: "I would request the Hon'ble Member in charge to make a declaration on this point, that it is not the intention of the Government of India to have dual control by framing rules under this section, because there will be rules under the Boiler Act and there will be rules under this Act, and therefore the Government of India should make that point clear, that the intention is that wherever the Boiler Act does not apply this Act will apply."

The Hon'ble MR. CLARK: "Certainly, Sir. I can give this assurance at once. There is no intention of making rules which would clash. Every care will be taken to see that they are kept distinct."

Amendments Nos. 23\* and 24† were withdrawn by the Hon'ble MR. BIRKMYRE.

The Hon'ble MR. CLARK: "I beg to move that in clause 41 of the Bill as amended by the Select Committee, for sub-clause (f) the following be substituted, namely:

"(f) any of the provisions of section 18, sub-sections (1), (3), and (4), regarding fencing and the protection from danger of persons employed in attending to the machinery or boilers are not complied with."

"This amendment is also consequential on the amendment of clause 18."

The amendment was put and agreed to.

The Hon'ble MR. GATES: "Sir, I beg to move that after clause 51 of the Bill as amended by the Select Committee the following new clause be inserted, namely:—

'55. Notwithstanding anything in section 22, sub-section (1), any person may in the province of Burma be employed on Sunday for any time not exceeding four hours in cleaning the machinery and apparatus in a factory provided that he has not worked in the factory later than two o'clock in the afternoon on the previous day,'

and that the subsequent clauses of the Bill be re-numbered.

"There has been a long-standing custom in Rangoon that the factories close early on Saturday afternoon and that the operatives come on Sunday morning to do the cleaning up of the factories. This point was mentioned in the Select Committee and no objection was entertained in the Select Committee to make provision for the custom at Rangoon in this particular. But when the Report of the Select Committee was prepared other more important matters occupied attention, and this comparatively small point was overlooked. At present some of the factories do not close so early as 2 P.M., and some of them occasionally employ men for more than four hours on Sundays; but the proposal embodied in this suggested new clause is considered to be a fair compromise, and as it was not dealt with in the Report of the Select Committee I ask the Council to deal with it now."

The Hon'ble MR. CLARK: "Government can accept this amendment."

The Hon'ble SIR VITHALDAS D. THACKERSEY: "Mr. President, I have no objection if this amendment is accepted, but I do not see why it should be confined to Burma. I mean, we can say that—

'Notwithstanding anything in section 22, sub-section (1), any person may be employed on Sunday for any time not exceeding four hours in cleaning the machinery and apparatus in a factory: provided that he has not worked in the factory later than two o'clock in the afternoon on the previous day.'

"I can quite understand that there are advantages under this section, and although it is not the practice in other parts of India to close down at 2 o'clock

\* That in clause 51, sub-clause (2), of the Bill as amended by the Select Committee, for all words after the word "namely" the following be substituted:—

"five-thirty o'clock in the morning and six-thirty o'clock in the evening;  
six-thirty o'clock in the morning and seven-thirty o'clock in the evening; and  
seven o'clock in the morning and eight o'clock in the evening."

† That in clause 52 of the Bill as amended by the Select Committee, the words and figures "section 28" be omitted.

on Saturday and get the machinery cleaned on Sunday; it is to the advantage of operatives under certain circumstances to follow that practice. It may not pay us at present to do so, because when we work our mills a full day on Saturday we get production over which we make some profit; but there are certain advantages which may ultimately accrue. Gradually as our children get education under the Bill that we discussed the other day, they might want a half-holiday on Saturdays to play cricket matches, and so on, instead of being at the factory cleaning the machinery up to 3 or 4 o'clock. Under such conditions it would be an advantage to let them go at 2 o'clock and the next day they may come to clean the machinery. On the whole, if that is an advantage for the workmen of Burma, that would be an advantage to workmen all over India, and I do submit, Sir, that the words 'in the province of Burma' might be omitted."

The Hon'ble MR. CLARK: "Sir, the Hon'ble Member has himself supplied the reason why this amendment must be limited to Burma. He told us that it is not the practice in other parts of India to work on this plan. We could not agree to give the opportunity throughout India, where it has not existed before, of extending working to every day of the week. One cannot shut one's eyes to the fact that it is not really an equivalent holiday to give a man two half days instead of a whole day once a week. But as the Burmans have always been in the habit of having this arrangement, and as it would be a practical hardship and would create discontent among them if we insisted on their having the whole of one day off instead of two half days, this section has been accepted as a special concession in view of the existing state of things in Burma. I am afraid we cannot extend it to the rest of India."

The amendment was put and agreed to.

Amendments Nos. 26 and 27\* were withdrawn by the Hon'ble MR. BIRKMYRE.

The Hon'ble MR. DADABHOY: "Sir, I move that in Schedule I, Part A, clause (c), of the Bill as amended by the Select Committee, after the words 'cleaning of' the following be inserted, namely:

'walls, ceilings or other portions of factory buildings, tanks, wells.'

"I have very few words to say about this amendment, and I hope that it will be readily accepted by Government. Schedule I, Part A, applies to certain exemptions where work of an urgent nature or such as in the interest of efficiency is commonly performed while the main manufacturing process of the factory is discontinued. Section 21 of the Bill applies to periodical stoppages, section 22 to weekly holidays, and section 23 to the employment of children.

"The work to which my amendment refers cannot be conveniently and efficiently done during the hours textile factories are actually working. The object of my amendment is to exempt all such important works such as cleaning of walls, ceiling or other portions of factory buildings, as well as tanks and wells from the operation of these sections."

The Hon'ble MR. CLARK: "I think, Sir, that this amendment is certainly an improvement on the Bill and Government are very pleased to accept it."

The amendment was put and agreed to.

The Hon'ble MR. MUDHOLKAR: "Sir, I beg to move that in Schedule II, Part A, of the Bill as amended by the Select Committee, for the words "mineral oil refineries" the words "oil refineries" be substituted.

"This is an amendment, Sir, which only brings Part A of Schedule II into conformity with Part B of Schedule I. The process of refining is a continuous one and cannot be stopped when it is once begun. It cannot be finished in a

\* That in Schedule I of the Bill as amended by the Select Committee, for the figures "30", each time they occur, the figures "28" be substituted.

That for references to clauses 29 and 32 and the following clauses, wherever they occur, references to the corresponding clauses as renumbered be substituted.



day and it has for technical reasons to continue once it has begun. For the same reason that mineral oil refineries had to be mentioned in Part A of Schedule II, vegetable oil refineries should also be mentioned. The matter was explained to the Hon'ble Member in charge and I hope that Government will accept this amendment."

The Hon'ble MR. CLARK: "Sir, I do not think that Government need object to the deletion of the word 'mineral' and to the proposal to read 'oil refineries' instead of 'mineral oil refineries.' But I may point out that if the substitution is to be made in Schedule II, Part A, it ought also to be made in Schedule I, Part B."

The amendment was put and agreed to.

The Hon'ble MR. CLARK: "Perhaps it would be more in order if I first moved that the word 'mineral' should be omitted in Schedule I, Part B."

The motion was put and agreed to."

The Hon'ble MR. CLARK moved that the Bill, as now amended, be passed.

The Hon'ble MR. GOKHALE: "Sir, I wish to say a word before this motion is put to the vote. I wish to express my satisfaction that the batch of amendments, of which the Hon'ble Mr. Birkmyre had given notice, have been withdrawn. Those amendments all hung together, and one essential part of them was that the working hours of children should be extended from 6 to 6½ hours. This was a most objectionable provision, and, as the amendments all hung together, I am glad that they have all gone. But, apart from that fact, Sir, the procedure that was adopted in announcing those amendments to this Council was open to serious objection. I think I may say that never before in the history of this Council has a private Member been permitted to announce his amendments in a set speech at a meeting of the Council. What added to the curiousness of the whole thing was the blessing that the Hon'ble Member in charge of Commerce and Industry was at that time understood to pronounce upon those amendments. The whole thing looked as though an arrangement was being come to between the Government and the jute industry. It was stated at that time that Mr. Birkmyre's proposal of a 6 A.M. to 7 P.M. day had never been brought before the Select Committee; that it was a new proposal and that therefore it had to be announced in Council. Of course, the proposal was technically new; it had not been formally brought before the Select Committee, because the Hon'ble Mr. Robertson had made it quite clear that on that question the Government were not open to entertaining any proposals; otherwise, anybody could have suggested it, as it was the most obvious thing, the most natural thing, to propose that a day should begin at 6 instead of at 5-30 A.M. As a matter of fact, I did inquire why it was necessary to have a total duration of 13½ hours, and the Hon'ble Mr. Robertson explained that in Upper India it was the practice to stop work for an hour and a half in the middle of the day, and, in order to provide for that hour and a half, it was necessary to begin at 5-30 A.M. and close at 7 P.M. However, all's well that ends well. I am glad that the amendments have not been pressed and that the suspicion that some of us entertained has now been dispelled."

The Hon'ble MR. CLARK said: "Sir, I should like to express my regret that, owing to the laudable desire of the Hon'ble Mr. Birkmyre not to waste the time of the Council and consequently withdrawing his amendments, the Hon'ble Mr. Gokhale should have been precluded from referring to this matter when those amendments were before us. Now, as to the remark of the Hon'ble Mr. Gokhale that it was an unprecedented thing for a private Member like the Hon'ble Mr. Birkmyre to be permitted to announce his amendments to Council when the Bill was not under consideration, all I wish to say is that it was not Mr. Birkmyre but I who announced those amendments. The reasons for doing so I stated then, and I have stated them again in my speech to-day; and I hardly think it is necessary for me now to state them again at any length. I considered those amendments of special importance because of the Hon'ble Mr. Birkmyre's peculiar position as the

accredited representative of the jute industry appointed to this Council in special connection with this Bill; and therefore it was not an unreasonable supposition that any amendments which came through him would be put forward not only on behalf of his own industry but to a very large extent on behalf of the textile industry generally. Well, it would no doubt have been open to us to recommit the Bill in connection with those amendments; but that would have meant that, if they had been accepted, the Bill would have had to have been recirculated and passed into law under the present procedure somewhere about this time next year. I do not think the Hon'ble Member, who has always championed the cause of labourers and of children, would have wished that to have been done. That would have meant that the Bill, if passed into law next year, would not have come into operation until the year after. It seemed to Government that it would be far better that I should make a statement about these amendments, get them known, and have them criticised at once, so that we might be able to proceed to the consideration of the Bill without delay. I must confess that I am rather puzzled to know what there was in my statement which led the Hon'ble Mr. Gokhale to the conclusion that I intended to accept those amendments. My statement was meant to be entirely colourless. I merely stated what the Hon'ble Mr. Birkmyre proposed, so far as I understood the purport of his amendments."

The motion was put and agreed to.

The Council adjourned to Friday, the 24th March 1911.

J. M. MACPHERSON,

Secretary to the Government of India,  
Legislative Department.

CALCUTTA;  
The 3rd April 1911. }

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,  
ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS  
UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 TO  
1909 (24 & 25 VICT., c. 57, 55 & 53 VICT., c. 14, AND 9 EDW. VII, c. 4).

The Council met at Government House, Calcutta, on Friday, the 24th March 1911.

PRESENT:

His Excellency BARON HARDINGE OF PENSHURST, P.C., G.C.B., G.C.M.G., G.C.V.O.,  
G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*,  
and 58 Members, of whom 51 were Additional Members.

STATISTICS OF CONTRIBUTIONS FROM BURMA TO IMPERIAL  
REVENUES.

The Hon'ble SIR GUY FLEETWOOD WILSON: "My Lord, I beg to lay on the table\* the papers referred to in my reply to the Hon'ble Maung Ba Too's question regarding the calculations on which Sir Hugh Barnes based his statement that the year 1904-05 was the first in which Burma paid its way."

QUESTIONS AND ANSWERS.

The Hon'ble Raja of Dighapatia asked:—

"Will the Government be pleased to lay on the table a complete return showing the number of appointments, with salaries of Rs. 500 and over per month, held at the present moment in every department of the public service under the Imperial as well as the Provincial Governments, by Europeans, Indians and members of the domiciled community, respectively?"

The Hon'ble Sir Guy Fleetwood Wilson replied:—

"The information asked for by the Hon'ble Member would involve a very great expenditure of time and labour and cannot be obtained during the present session of the Legislative Council.

"A statement † showing the proportion of appointments on Rs. 1,000 and upwards held by Europeans and Indians in 1910 as compared with 1903 and 1867 has recently been compiled for the information of the Government of India and has to-day been laid upon the table.

\* *Vide* Appendix A.

† *Vide* Appendix B.

"A similar statement showing the proportion of appointments on Rs. 500 basis and over will now be taken in hand and will eventually be laid upon the table."

**The Hon'ble Mr. Sachchidananda Sinha asked :—**

"With reference to the *ad interim* reply given by the Hon'ble the Home Member to a question asked by me on the 16th March on the subject of the enrolment of legal practitioners in the Courts of the North-West Frontier Province, will the Government be pleased to say whether they are now in a position to supply the information there requested?"

**The Hon'ble Mr. Jenkins replied :—**

"(a) All legal practitioners (including barristers) who wish to practise in the North-West Frontier Province are required to take out a license and to pay the following fees: for a first grade license, Rs. 50; and for a second grade license, Rs. 25.

"A license remains in force until the end of the calendar year for which it is granted. On applications for renewal a fee of Rs. 20, in the case of a first grade license, or of Rs. 10, in the case of a second grade license, has to be paid.

"(b) Since the formation of the Province on the 9th November 1901, 19 applications for authority to practise have been received from barristers. Of these 2 have been rejected.

"(c) During the same period, 325 applications have been made to the Judicial Commissioner for permission to appear in particular cases. Of these 20 have been rejected.

"(d) & (e) No maximum number of legal practitioners has been fixed by the Judicial Commissioner either for his own Court or for the Courts subordinate to him.

"(f) The Government of India are not aware that dissatisfaction has been caused, either among lawyers (except, perhaps, those whose applications have been refused) or the litigant public, by the rules regulating the enrolment of legal practitioners in the Courts of the North-West Frontier Province. The local Administration has received no complaints from the public that the number of legal practitioners is insufficient.

"(g) The rules in force in the Judicial Commissioner's Courts in other provinces vary considerably. The Hon'ble Member will gather, therefore, that it is not practicable to reply to this question in its present form."

**The Hon'ble Mr. Mazharul Haque asked :—**

"In reply to my question last year on the subject of the pay and prospects of Civil Assistant Surgeons in Bengal, the Hon'ble Sir Harvey Adamson, the then Home Member, was pleased to state that the Government of India had given full and sympathetic consideration to the memorials of the said Assistant Surgeons and to the proposals of the Government of Bengal and that they were about to address the Secretary of State on the subject. Will the Government be pleased to state whether the Secretary of State has been addressed and whether any communication has been received from him, and whether it will be published?"

**The Hon'ble Babu Bhupendranath Basu asked :—**

"In reply to a question regarding the improvement of prospects of Assistant Surgeons, in the Bengal Legislative Council, on the 18th February 1911, the Local Government was pleased to state that 'the question of the improvement of the prospects of the service of Civil Assistant Surgeons was awaiting the orders of the Government of India and the Secretary of State'. Will the Government be pleased to state what orders, if any, have been passed on the subject, and, if no orders have yet been passed, when the publication of such orders may be expected?"



**The Hon'ble Mr. Jenkins replied :—**

"The Government of India addressed the Secretary of State on the subject in May 1910 and again in January last. They have not received a reply to their last despatch and are unable to say at present whether any of the papers will be published."

**The Hon'ble Mr. Chitnavis asked :—**

"Is it a fact that the 'castes and occupations' of cultivators and 'the social condition of the landlords and tenants' are among the factors which form the bases of the rule of rent enhancement in the Central Provinces and that this rule has produced great dissatisfaction among the landholding classes? If the rule is as above stated,—

- (a) On what principle is the rule founded?
- (b) Has it not the result of taxing, in addition to increased production, profits from non-agricultural pursuits as also the virtues of frugality and thrift?
- (c) Will the Government be pleased to say whether it will, in consultation with the Hon'ble the Chief Commissioner, amend the rule so as to exclude from it the two factors referred to above?"

**The Hon'ble Mr. Carlyle replied :—**

"The social condition and circumstances of cultivators are relevant at three stages in the revision of a settlement. The first reference to these circumstances (article 196 of the Settlement Code) is in connection with the Tahsil Report, and is mainly of a general descriptive character. The second reference [article 203 (10) of the Code] requires the general circumstances, with the chief castes and occupations, of the tenants, and the extent to which they are indebted, to be stated in connection with the Rent Rate Report. The third reference (article 217 of the Code) relates, among other things, to the classification of tenants by their status which is made at attestation (article 170 of the Code), and is relevant to the extent of the margin, if any, to be relinquished in favour of the raiyat when his rent is being fixed in accordance with the deductions of the Settlement-officer. The social condition of landlords is mentioned in the Tahsil Report only.

"The general prosperity, or the reverse, of a tract or village has always an important bearing upon the settlement of rents and land-revenue, and the condition of each particular raiyat materially affects the question whether he individually should pay the full statistically deduced rent of his holding or something less.

"The statistically deduced rent is based on considerations of rise in prices, quality of land and prevailing rates, and the information furnished as to the caste, occupation and status of an individual tenant is freely used, not for raising his rent above the deduced rent, but, on the contrary, for determining whether any, and if so what, reduction from that rent should be granted to him.

"The best information at the disposal of the Government shows that these principles are entirely in accordance with village opinion, that they do not tax other sources of income, and that they in no way discourage frugality and thrift among tenants or landlords.

"The Government consider that any abandonment of the principles involved would cause much dissatisfaction among the cultivating classes themselves, and they do not propose to modify the practice followed, which cannot operate to the prejudice, but only in favour, of any one cultivator."

**The Hon'ble Mr. Sachchidananda Sinha asked :—**

"(a) Will the Government be pleased to state the principles on which Government advertisements are given to newspapers?"

"(b) Are the principles, if any, definitely embodied in rules or instructions? If so, are they published or otherwise accessible to the public?"

"(c) Is it a fact that Government advertisements are given in larger quantities to some papers than to others? If so, on what grounds?"

"(d) Are the Government aware that a strong feeling exists and which has found expression in the Press that all newspapers are not treated equally in the matter of distribution of Government advertisements? Does any such inequality of treatment exist? If so, do the Government propose to so modify the procedure in force as to lead to an equal treatment?"

**The Hon'ble Mr. Jenkins replied:—**

"(a) The Government of India do not select the newspapers with which official advertisements are to be placed. Each Department or Court or Office is left to make its own arrangements so as to obtain the widest publication at the least cost in the localities in which and among the public for whom each advertisement is intended.

"(b) No rules or instructions have been issued on the subject.

"(c) It follows from the answer given to clause (a) of the question that certain papers will receive more advertisements than others and for the reasons there given.

"(d) Government are not aware that any inequality of treatment exists, and no specific instance of the kind suggested has been brought to their notice."

**The Hon'ble Raja of Dighapatia asked:—**

"With reference to the reply given by the Hon'ble Mr. Jenkins to my question of the 1st instant regarding Government advertisements in certain newspapers at special rates, is Government aware that there is a standing notice in the *Pioneer* of Allahabad which states that while the rate for a full column of casual advertisement is Rs. 30 for each insertion or at the rate of four annas per line only, its charges for Government advertisements are so much as eight annas per line?"

"Will the Government state the principles on which official advertisements are sent to some newspapers, and if newspapers with very large circulations only are selected for the purpose?"

**The Hon'ble Mr. Jenkins replied:—**

"The notice of Government has been drawn to the fact stated in the Hon'ble Member's question. The attention of the Local Government and of the principal advertising Departments concerned will be drawn to the matter.

"The Hon'ble Member is referred to the replies given to the questions put by the Hon'ble Mr. Sachchidananda Sinha on the same subject."

**The Hon'ble Mr. Subba Rao asked:—**

"With reference to the answer given at the meeting of this Council on the 1st instant by the Hon'ble Sir Guy Fleetwood Wilson that 'it is understood that the method of determining the profits (or assessment to income-tax of Life Assurance Companies) is not uniform in the different Provinces,' will the Government be pleased to state how the profits of Life Assurance Companies are assessed in the different Provinces?"

**The Hon'ble Sir Guy Fleetwood Wilson replied:—**

"The principles followed in different provinces in calculating the profits of Life Assurance Companies for the purposes of the Income-tax Act are as follows:—

"In Eastern Bengal and Assam, the United Provinces and the Central Provinces no such Companies are assessed to the tax.

"In Bombay, the Punjab and Bengal the calculations are based on the statements of the officers of the Companies themselves; subject to the usual inspection of accounts, if considered necessary by the Collectors.

"In Madras, where there is one Company only, net profits are deduced by subtracting from the receipts (including *premia*) of the year, all admissible charges (including claims paid).

"In Burma two branch offices are assessed on the principle of dividing the total profits of the year between the Head Office and the local branch proportionately to the amount which they respectively receive in *premia*."

**The Hon'ble Mr. Subba Rao :—**

"May I ask, with Your Lordship's permission, whether the practice in any of the provinces conforms to the principles governing the assessment of income under the Income-tax Act in England?"

**The Hon'ble Sir Guy Fleetwood Wilson :—**

"I must ask for notice of the question; it will require looking into."

**The Hon'ble Mr. Subba Rao asked :—**

"I. Will the Government be pleased to state what effect is proposed to be given to the recommendation of the Royal Commission on Decentralization that 'the general principles of land-revenue assessment should be embodied in provincial legislation?'"

"II. Will the Government be pleased to state whether it will be pleased to lay down definite rules limiting the increase in assessment which may be imposed at any settlement, as was once proposed by Lord Ripon's Government?"

**The Hon'ble Mr. Carlyle replied :—**

"I. The Government of India have, with the approval of the Secretary of State, decided that it is not expedient to take any action on the recommendation in question."

"II. The proposals referred to by the Hon'ble Member have been already to a large extent adopted in Madras and Bombay. In the greater part of the temporarily settled area of India there are rules by which the assessment is limited to such figure as will prevent the resulting revenue from exceeding a certain share of the net assets or net produce, and the Government of India are considering whether any further limitations are required, but it is not intended to prescribe the adoption of the proposals referred to by the Hon'ble Member."

**The Hon'ble the Raja of Kurupam asked :—**

"Will the Government of India be pleased to say whether they will ask the Government of Madras not to extend the imposition of the Proprietary Village Service Cess to estates in which it is not already levied?"

**The Hon'ble Sir Guy Fleetwood Wilson replied :—**

"The Government of India do not consider it necessary to give the Madras Government any instructions in the matter."

**The Hon'ble Babu Bhupendranath Basu asked :—**

"The Government of Bengal was pleased to state, at a meeting of the Local Council held on the 30th August 1910, that the Local Government and the High Court had submitted to the Government of India for its approval a proposal for the creation of a new grade of Munsiffs at a monthly salary of Rs. 500, similar to what has been created since the partition in the province of Eastern Bengal and Assam, but that such proposal had not met with the approval of the Government of India, and that the Government of Bengal had re-submitted the question to the Hon'ble the Judges of the High Court for further consideration."

"Will the Government be pleased to state whether the proposal for the creation of this grade of Munsiffs has made any further progress?"

**The Hon'ble Mr. Jenkins replied :—**

"As far as the Government of India are aware, the matter rests precisely where it was when it was explained by the Hon'ble Mr. Gourlay at the meeting of the Bengal Legislative Council of the 30th August 1910. No further reference has been made by the Bengal Government to the Government of India on the subject."

## EDUCATIONAL SERVICE.

The Hon'ble BABU BHUPENDRANATH BASU : " My Lord, with regard to the resolution\* which stands in my name, having regard to what the Hon'ble Mr. Butler said in answer to the resolution moved by my friend the Hon'ble Mr. Subba Rao and to the assurance which he was pleased to convey to me that the whole matter was being considered by the Government of India, with Your Lordship's permission and with the permission of my friend the Hon'ble Mr. Gokhale, who has moved an amendment, I beg to withdraw this resolution for this year."

His Excellency THE PRESIDENT : " The Resolution is therefore withdrawn."

## BUDGET.

The Hon'ble SIR GUY FLEETWOOD WILSON : " My Lord, I now present the Budget for 1911-1912. The Financial Statement which I laid before the Council on the 1st of March has run the gauntlet of criticism and discussion; and the result leads me to believe that our financial dispositions for the year have commended themselves, in all their main features, to the great majority of my colleagues. The figures have now been again examined, and such alterations have been made in them as our latest information suggests. They are shown in their final form in the statements which are in the hands of Hon'ble Members, and in the explanatory memorandum which has been revised and brought up to date. There will be no discussion on the Budget to-day; but on Monday next it will be open to Members to offer such observations upon it as they think proper, without moving resolutions or dividing the Council.

" The changes which have been made in the figures since they were last under our consideration are comparatively few and for the most part unimportant. They involve no question of principle, and I shall describe their general effect in as few words as possible.

" Our Imperial surplus for the year which is now closing is nearly £100,000 smaller than we had calculated a month ago. There are three main reasons for this. On the one hand our Bengal opium sales in March showed a fall in prices, due mainly to rumours of further taxation at Canton, which pulled our revenue down by £83,000; while a certain slackness in the cotton and wheat traffic suggested a reduction of £120,000 in our estimate of net Railway earnings. On the other hand our Military charges are lighter by £100,000 than I took them in the Financial Statement, mainly as a result of short purchases of stores in England. I need not trouble the Council with the few other and minor variations, which practically counterbalance each other.

" For the coming year the latest recension of our estimate shows our Imperial surplus at £819,200, of which £638,800 or 96 lakhs may be taken as derived from sources other than opium. The improvement since my estimate

\*" I. That this Council recommends to the Governor General in Council that one-third of the posts reserved for the Indian Educational Service be filled up by appointments of distinguished Indian graduates of Indian or British Universities and also by promotion from the ranks of the Provincial Educational Service.

" II. That this Council recommends to the Governor General in Council that the Provincial Educational Service should be so remodelled that not more than ten years should elapse for an officer to rise from Rs. 200 to Rs. 400 grade."

*The Hon'ble MR. GOKHALE'S proposed Amendment.*

" That this Council recommends that the distinction between the Imperial and Provincial branches of the Educational Service should be abolished; that every appointment in that service should be equally open to Europeans and Indians alike, subject to the essential condition of equal qualifications; that the scale of salaries should be the same for both, an extra allowance being paid to European members of the service in consideration of their special requirements; and that the prospects in the service as regards pay and pension should be so improved as to attract to it the best men available both European and Indian."



of the 1st March is thus £75,400. Minor causes apart, this may be ascribed to the following reasons. In the first place, additional interest will accrue to us in consequence of the law which was passed in Council on the 16th instant for increasing the invested portion of the Paper Currency Reserve. Early next year we expect to be able to buy sterling securities at a cost of 2 crores, and three quarterly payments of the interest upon these (estimated at £30,000) will be credited in the Home Accounts. In the second place, the Punjab Government expects to receive 10 lakhs more than we took in the preliminary estimate from the sale of proprietary rights in its canal colonies; and half of this, or £33,300, goes to swell the Imperial surplus. In the third place, about £23,300 of the cost of the preparations for the Royal Darbar will be spent before the end of the current month, thus diminishing the provision which had been made in the Budget. And lastly, £11,300 have been added to the Military allotments, chiefly on account of the stores which it was meant, but found impracticable, to purchase in England during the current year. The net result of these four changes gives the improvement to which I alluded.

“ Leaving our revenue figures and the outgoings against them, I note in conclusion certain changes in our general cash position. Our opening cash balance for next year will be better than we estimated by about £680,000. This is partly due to the advance instalments of the new sterling loan for £3½ millions, which was issued last week at 96; partly to an increase in our savings bank deposits; and partly to considerable further lapses in capital expenditure. Nearly half of the improvement, however, will be absorbed next year; chiefly as the result of increased provincial expenditure against the grants which Local Governments have received in the current year. When I announced these grants in the Financial Statement, we had not had time to consult Local Governments fully as to the time and manner of their expenditure. In the interval, the employment of the grants has been carefully considered by the provincial authorities in consultation with their Councils, and it has been decided to provide in next year's budget for a larger measure of expenditure than I had tentatively assumed in our preliminary estimates. Mainly owing to this cause, the combined cash balances at the end of 1911-1912 will be only £3 6,000 better than we calculated a month ago. In no other important respect have we altered our estimate of ways and means, except that provision is made for the remittances through our Currency Reserve which are necessary to finance the additional investments that are in contemplation. There are no other points with which I need occupy the time of the Council.”

#### ADJOURNMENT OF COUNCIL.

His Excellency THE PRESIDENT: “ I have to announce to Hon'ble Members that the Budget debate will be held on Monday next and, if necessary, will extend to Tuesday. The time limit of speeches on that occasion will be, as last year, twenty minutes, subject to exception in favour of Members in charge. The Council is now adjourned till 11 o'clock on Monday morning.”

J. M. MACPHERSON,  
*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA; }  
The 3rd April 1911. }

## APPENDIX

(Vide page 621.)

## Discussion on the Separation of Burma from India.

### FINANCIAL ASPECTS.

1. It is not possible to arrive at any satisfactory conclusion regarding the Contribution of Burma or any other province to India by any general examination of the Accounts as published by the Government of India, because a number of adjustments not traceable in the Accounts would be necessary to give each Province its correct share of net surplus. For example the Bengal Accounts include the United Province opium, and Bombay takes credit for the Malwa opium. Then again Bengal, Madras, and Bombay are credited with the Salt and Customs receipts properly appertaining to the inland provinces, etc. Each province is also credited with the net Railway receipts, and since 1895-96, no charge has been made for interest on capital and other charges paid direct by the Imperial Government. The Home Charges, including Pensions and Furlough allowances, Military and Civil Stores, and a number of other charges, are excluded from the Provincial Accounts. The Indian expenditure on the Army is also omitted from all provinces, except Bombay and Madras, and that shown for the former includes troops in Baluchistan, Aden, Central Provinces, etc., whilst the Madras figures include the whole of the Burma Force.

2. It is obvious therefore that each Province must be considered by itself and I have been at some trouble to ascertain the position of Burma during the past 42 years. During this entire period we have the exact Imperial receipts and charges, and the local cost of the Military Force employed within the province. It has always been an object in Indian Military policy to maintain as large a portion of the Army as possible in India itself, and it may consequently be accepted that Burma has been supplied with the minimum necessary for its requirements.

3. Taking these figures alone by themselves, *i.e.* the actual local receipts and expenditure, as shown in the budget, Burma gave a surplus as contribution to Imperial every year since 1861-62, except for the years from 1886-87 to 1889-90, and 1891-92, varying from 12 lakhs to 265 lakhs. From these figures, however, it is necessary to deduct Burma's share of the Home charges, which include Civil and Military Stores, Furlough allowances and Pensions, etc. As regards the Home Military charges, the aggregate expenditure of the last 20 years shows that they average 42 per cent. of the expenditure paid in India, but in working out the calculations for the entire period I have charged Burma at the rate of 33 per cent. only. As regards the Home Civil charges, exclusive of interest on debt, and all Capital Charges, the net expenditure for the last 20 years of Stores, Pension and Furlough allowances, represented 4.73 per cent. of the gross revenues of India and Burma, and it may be accepted that each province should on an average be charged in proportion to its gross revenue. In these estimates I have, however, charged the Burma revenues with 4 per cent. only. In addition to these there must be deducted the Railway charges, interest on Railway debt, Guaranteed interest, and interest on Irrigation Capital. The result of the figures so worked out for the 42 years, 1861-62 to 1902-03, no figures for 1903-04 have yet been published, is a total net surplus for the entire period of  $4\frac{1}{2}$  crores.

4. From these figures, however, should also be deducted the charges incurred in India for Civil, Military, and Public Works Stores, and Furlough Allowances and Pensions paid by India, Interest on Burma Telegraph Capital charges, contribution to the Royal Navy and Royal Indian Marine, and Burma's share of the cost of the Central Government. The aggregate of these charges during the 42 years probably covers the whole of the net surplus of  $4\frac{1}{2}$  crores.

5. But the important item of interest on Burma's debt to India has also to be considered. There is no published account showing what this debt now is, or how it has increased or decreased year by year, but it is possible to arrive at a fair approximation. We know that the 1824 War cost 5 crores, and was followed by a series of heavy deficits, the War of 1852 could not have cost less than another 5 crores, and the years succeeding up to 1861-62, the first year included in these estimates, were all deficit years. Thus the year 1861-62 could not have opened with a smaller debt than 15 crores, and it was probably higher. Starting with this figure, and allowing the Government rate of interest on it, and the amount of deficit for each year so arrived at being added to the debt of the province, Burma experienced an actual deficit year after year up to 1903-04 inclusive. These deficits have been decreasing rapidly since 1895-96 and the calculations indicate that 1904-05 will be the first year anywhere approaching equilibrium.

#### Burma Contribution to Imperial.

1902-03.

	Rs.
Imperial Receipts . . . . .	4,71,10,000
Imperial Expenditure . . . . .	1,18,63,000
Net . . . . .	<u>3,52,47,000</u>

#### Deduct—

Army . . . . .	1,17,30,000
Railway . . . . .	43,21,000
Interest in Irrigation Capital . . . . .	2,22,000
Share of Home Charges . . . . .	33,33,000
Interests on Burma Debt . . . . .	2,17,10,000
	<u>4,13,16,000</u>
Deficit . . . . .	<u>60,69,000</u>

This deficit is increased by—

- (1) India Charges for Civil and Public Works Stores, and Furlough Allowances and Pensions paid in India.
- (2) Capital Charges, Telegraphs.
- (3) Contributions to Royal Navy and Royal Indian Marine.
- (4) Share of Central Government in India.

RANGOON:  
The 31st January 1905.

}

F. J. A.

**STATEMENT I.**  
**Accounts, 1902-03.**

Serial No.	Province.	Order in which contribution to Imperial ranks.	IMPERIAL.			PROVINCIAL.			LOCAL.			Net Provincial plus Local Receipts.
			Receipts.	Expenditure.	Net Receipts.	Receipts.	Expenditure.	Net Receipts.	Receipts.	Expenditure.	Net Receipts.	
1	2	3	4	5	6	7	8	9	10	11	12	13
			Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1	India	...	17,75,96,967	9,38,19,494	8,37,77,473	...	...	...	2,72,347	2,49,327	23,020	23,020
2	Central Provinces	...	2,03,70,573	1,17,08,904	86,61,669	1,02,97,857	99,50,310	3,47,547	12,05,528	15,59,615	-3,54,087	-6,540
3	Assam	...	60,98,279	24,09,229	36,89,050	84,18,246	71,06,648	13,09,598	9,43,375	10,87,937	-1,44,562	11,65,036
4	North-West Frontier Provinces.	...	37,95,411	72,56,080	-34,60,669	...	...	...	3,63,946	3,68,034	-4,088	-4,088
5	Bengal	1	15,18,67,733	3,62,01,261	11,56,66,472	5,23,91,792	4,98,40,724	25,51,068	71,86,915	86,66,340	-14,79,425	10,71,643
6	Bombay	2	13,94,08,660	5,05,14,086	8,88,94,574	4,67,70,156	4,77,56,705	-9,86,549	40,65,346	51,76,885	-11,11,539	-20,98,088
7	Madras	3	10,58,12,858	1,85,75,532	8,72,37,326	3,64,05,042	3,59,51,999	4,53,043	1,46,29,436	1,47,28,454	-99,018	3,54,025
8	United Provinces of Agra and Oudh.	4	11,11,91,654	3,33,30,624	7,78,61,030	3,89,86,646	3,69,03,250	20,83,396	1,09,75,664	1,27,93,935	18,18,271	2,65,125
9	Punjab	5	7,18,29,472	3,37,02,301	3,81,26,671	2,19,22,756	2,14,25,997	4,97,459	43,68,721	37,05,717	6,63,004	11,60,463
10	Burma	6	4,71,10,415	1,18,63,159	3,52,47,256	3,36,43,534	3,73,29,721	-36,86,187	25,80,131	21,53,501	4,26,630	-32,53,557



**STATEMENT II.**  
**1902-03.**

Province.	Gross revenue.	Percentage of whole revenue of India.	Remarks.
1	2	3	4
	Rs.		
Central Provinces . . . . .	8,18,74,000	8.3	
Burma . . . . .	8,33,34,000	8.7	
Assam . . . . .	1,54,58,000	1.6	
Bengal . . . . .	23,87,58,000	24.8	
United Provinces . . . . .	13,88,42,000	13.9	
Punjab . . . . .	9,81,21,000	10.2	
North-West Frontier . . . . .	41,59,000	.4	
Madras . . . . .	15,68,48,000	16.3	
Bombay . . . . .	19,02,44,000	19.8	
Berar . . . . .	96,14,000	1.0	
	96,22,52,000	100.0	

**STATEMENT III.**  
**1902-03.**

Provincial contribution to Imperial, as shown in the Budget, not allowing for Provincial transfers of Opium, Salt and Customs—and Military charges as estimated in Statement V.

Serial No.	Province.	Net Imperial Receipts.	Military Estimates.	Balance.
1	2	3	4	5
		Rs.	Rs.	Rs.
1	Central Provinces . . . . .	86,62,000	65,55,000	21,07,000
2	Assam . . . . .	36,89,000	31,98,000	4,91,000
3	Punjab and North-West Frontier . . . . .	3,46,65,000	7,68,97,000	—4,22,32,000
4	Quetta . . . . .	...	1,21,50,000	—1,21,50,000
5	Aden . . . . .	...	57,55,000	—57,55,000
6	Bengal . . . . .	11,56,66,000	84,78,000	10,71,98,000
7	Madras . . . . .	8,72,37,000	3,56,51,000	5,15,86,000
8	Bombay . . . . .	8,88,95,000	4,46,03,000	4,42,92,000
9	United Provinces . . . . .	7,78,61,000	3,66,10,000	4,12,51,000
10	Burma . . . . .	3,52,47,000	1,34,29,000	2,18,18,000
	Total . . . . .	45,19,22,000	24,33,21,000	22,86,06,000

## STATEMENT IV.

1902-03.

Provincial contribution to Imperial as shown in the Budget after allowing for transfers of Salt, Opium, and Customs.

Serial No.	Province.	Order in which contribution ranks.	Net Imperial Receipts—Accounts.	Add + Deduct—transfer from or to other Provinces.	Add or deduct Post Office, net.	Net contribution to Imperial.
1	2	3	4	5	6	7
			₹	₹	₹	₹
1	India . . .	...	8,37,74,000	+ 99,30,000	...	9,37,04,000
2	Central Provinces.	...	86,62,000	+ 73,80,000	+ 2,29,000	1,62,71,000
3	Assam . . .	...	36,89,000	+ 18,51,000	+ 4,000	55,44,000
4	North-West Frontier.	...	—30,61,000	...	...	—30,61,000
5	Bengal . . .	1	11,56,66,000	—1,35,59,000	+ 17,78,000	10,38,85,000
6	United Provinces.	2	7,78,61,000	+ 1,66,28,000	+ 12,24,000	9,57,13,000
7	Madras . . .	3	8,72,37,000	...	+ 17,19,000	8,89,56,000
8	Bombay . . .	4	8,88,95,000	—3,55,14,000	+ 13,01,000	5,46,82,000
9	Punjab . . .	5	3,31,27,000	+ 1,32,84,000	—23,86,000	4,90,25,000
10	Burma . . .	6	3,52,47,000	...	+ 4,42,000	3,56,89,000

## ESTIMATE OF TRANSFERS.

*Bombay—Opium.*—Transferred to India (Malwa opium).

*Salt.*—Net revenue divided between Bombay, Punjab, Central Provinces, and one-fifth of United Provinces in proportion to population.

*Customs.*—Thirty per cent. to Bombay—Balance divided as in case of Salt.

*Bengal—Salt.*—Net general revenue divided between Bengal—Assam, and four-fifths of United Provinces in proportion to population.

*Customs.*—Thirty per cent. to Bengal—Balance divided as in Salt.

## STATEMENT V.

1902-03.

## England and India. Cost of Army, India, Provincially.

*Army Index number, representing numerical strength of Provincial Forces.*

		R
Punjab	481	Total cost, Army—
Bombay	279	England
United Provinces	229	India
Madras	223	
Burma	84	24,33,21,000
Bengal	53	
Quetta	76	
Central Provinces	41	
Aden	36	
Assam	20	
	1,522	

*Share of cost.*

	R
Punjab	7,68,97,000
Bombay	4,46,03,000
United Provinces	3,66,10,000
Madras	3,56,51,000
Burma	1,34,29,000
Bengal	84,73,000
Quetta	1,21,50,000
Central Provinces	65,55,000
Aden	57,55,000
Assam	31,98,000
	24,33,21,000

*Explanation.*

Cost to each Province estimated on actual strength of Forces in each province. The index number giving the approximate strength.

The aggregate figures for the last 20 years show that the Home charges of the Army were 42 per cent. of the Indian cost, the total cost, Indian and Home, of the Military Force in each Province may therefore be taken on an average of 142 per cent. of the actual charges incurred within the Province each year.

The figure above shows that if Burma paid according to the proportionate strength of her forces, she should be charged with 52 per cent. on her local payment on account of her Home charges. In drawing out the estimates Burma has, however, been charged with 33 per cent. only.

## STATEMENT VI.

## Home Charges, Net, 1902-03.

*Of which Burma should pay its share.*

	R
Stamps	4,78,000
Post Office	14,99,000
Telegraph	38,52,000
General Administration	37,72,000
Marine	37,69,000
Scientific and Minor Departments	4,94,000
Furlough Allowances	36,60,000
Civil Pensions	2,88,62,000
Stationery and Printing	15,35,000
Civil Works	11,83,000
Miscellaneous	9,70,000
Total	5,00,74,000

This represent 4.31 per cent. of the gross revenue of India and taking the aggregate of the figures for the last 20 years the net Home Civil Charges amounted to 4.73 per cent. of the aggregate of the gross revenue. In these Estimates Burma is charged with 4 per cent. only on her gross revenue.

## STATEMENT VII.

## 45, Civil Works—Provincial and Local—Roads and Buildings.

## Net Expenditure for three years.

[With reference to allegation that Burma does not receive its fair share of money on this account.]

Serial No.	Province.	1900-01.	1901-02.	1902-03.	Total three years.	Average.
1	2	3	4	5	6	7
		R	R	R	R	R
1	Burma	95,57,000	88,88,000	95,36,000	2,79,81,000	93,27,000
2	Bengal	75,96,000	82,52,000	93,09,000	2,51,57,000	83,86,000
3	Madras	55,22,000	59,44,000	65,67,000	1,80,33,000	60,11,000
4	United Provinces	53,41,000	57,31,000	69,46,000	1,80,18,000	60,06,000
5	Bombay	33,90,000	42,44,000	55,87,000	1,32,21,000	44,07,000
6	Punjab	27,09,000	34,77,000	42,20,000	1,04,06,000	34,68,000
7	Assam	24,65,000	22,01,000	22,00,000	68,66,000	22,89,000
8	Central Provinces	16,04,000	21,43,000	27,82,000	65,29,000	21,80,000

## STATEMENT VIII.

## Finance and Trade.

One point of importance in connection with the separation of Burma from India is the question of Trade in its relation to the finances.

At present the bulk of the surplus is collected in February and March of each year, about 70 lakhs in February and 2 crores in March. Most of the February surplus is made use of for Trade purposes, but the March surplus is received too late to be of any use, and is sent to India through the Currency, where it is used. From April to December, the surplus is similarly disposed of with the result that the Burma cash balances can be kept conveniently low. From December money is required in Burma to finance trade, and what was sent to India from March to December is received back through the Currency, and in coin, and in this way trade can be financed with the retention of small cash balances.

If, however, Burma and India were separated, this system would no longer be possible, and either very higher cash balances maintained at a great cost, would have to be accumulated by December, or trade would suffer. Scarcity of money to finance trade would mean a rise in prices, and a rise in prices would mean a fall in exports, and a decrease in revenue, both under Land Revenue and Customs.

The magnitude of the financial operations of trade is shown by the fact that nearly 6 crores of rupees was taken between December 10th, 1903, and March 10th, 1904.

The question of the Export and Import trade of Burma must also be considered in this connection. If Burma was separated from India, India would tax Burma imports, and Burma would be at liberty to tax India's exports.

The aggregate value of the local exports of Burma to India in 1903-04 was Rs5,31,36,000, and the imports of Indian produce and manufactures was Rs6,51,41,000. Thus, so far as the finances are concerned, the Burma treasury would benefit by the change. An import duty of 5 per cent. *ad valorem* would give 32½ lakhs, and 4 annas per ton on the export of rice would give another half lakh, making 33 lakhs in all.

But on the other hand India would tax her imports from Burma. The principal articles exported from Burma to India are rice, lac, oils, and timber, which account for nearly 4½ crores of the export, and the question arises whether the Burma trade is strong enough to flourish with a tax on the lac, oil and timber exports, and, what is perhaps more important, what the effect would be on the trade in the numerous minor items of export which at present owe their existence solely, or almost solely, to the Indian demand. The inference is that the first three named would suffer, and that many of the smaller exports would be practically strangled.



## STATEMENT IX.

## Burma's Financial Position in 1903-04.

BURMA DEBT AND NET SURPLUS OR DEFICIT.														
YEAR.	BUDGET FIGURES.					DEDUCT BURMA CHARGES PAID BY INDIA.					BURMA DEBT AND NET SURPLUS OR DEFICIT.			
	Imperial receipts.	Imperial expenditure.	Allotment for Provincial Services.	Net Imperial receipts.	Payments on account of Burma Railway.	Army—Actual local cost + account of Home charges.	Interest on Irrigation Capital.	Home charges for Civil Stores, Civil Pensions and Allowances, etc., calculated at 4 per cent. of gross revenue.	Total columns 6 to 9.	Net Imperial receipts column 5—column 10.	Burma debt, exclusive of Railways, Telegraphs and Irrigation.	Interest on Burma debt.	Imperial surplus + Imperial deficit—column 11.—column 13 to be deducted from or added to Burma debt, column 14.	
	R	R	R	R	R	R	R	R	R	R	R	R	R	
1861-62	76,60,000	40,10,000		36,50,000	30,67,000	3,07,000	...	3,07,000	38,74,000	2,86,000	15,00,000,000	60,00,000	57,15,000	
1862-63	92,75,000	48,25,000		44,50,000	30,67,000	3,71,000	...	3,71,000	34,38,000	10,12,000	15,57,15,000	62,29,000	52,17,000	
1863-64	94,79,000	52,18,000		42,61,000	30,67,000	3,79,000	...	3,79,000	34,46,000	8,15,000	16,09,32,000	64,37,000	56,22,000	
1864-65	1,08,58,000	64,15,000		44,43,000	30,67,000	4,34,000	...	4,34,000	35,01,000	9,42,000	16,65,54,000	66,62,000	57,20,000	
1865-66	99,61,000	57,02,000		42,59,000	30,67,000	3,98,000	...	3,98,000	34,65,000	7,94,000	17,22,74,000	68,91,000	60,97,000	
1866-67	90,34,000	59,09,000		31,25,000	30,06,000	3,61,000	...	3,61,000	33,61,000	2,36,000	17,83,71,000	71,35,000	73,71,000	
1867-68	1,09,22,000	74,84,000		34,38,000	30,08,000	4,37,000	...	4,37,000	35,05,000	67,000	18,57,42,000	74,30,000	74,97,000	
1868-69	1,12,30,000	74,83,000		47,07,000	29,33,000	4,68,000	...	4,68,000	34,88,000	12,19,000	19,32,39,000	77,29,000	65,10,000	
1869-70	1,19,71,000	69,95,000		49,76,000	29,33,000	4,79,000	...	4,79,000	34,12,000	15,64,000	19,97,49,000	79,90,000	64,26,000	
1870-71	1,20,96,000	64,09,000		56,87,000	30,00,000	5,04,000	...	5,04,000	36,17,000	22,70,000	20,61,75,000	82,47,000	59,77,000	
1871-72	1,21,81,000	37,22,000	28,34,000	56,25,000	31,55,000	5,68,000	...	5,68,000	36,59,000	19,06,000	21,21,52,000	84,86,000	45,20,000	
1872-73	1,39,28,000	37,03,000	32,63,000	69,62,000	30,78,000	6,11,000	...	6,11,000	37,75,000	33,16,000	21,03,72,000	86,67,000	59,51,000	
1873-74	1,50,23,000	41,47,000	30,20,000	71,69,000	31,04,000	6,11,000	...	6,11,000	37,75,000	41,99,000	22,20,23,000	88,81,000	44,82,000	
1874-75	1,48,80,000	46,41,000	30,70,000	89,03,000	30,44,000	6,11,000	...	6,11,000	37,75,000	48,35,000	22,07,05,000	90,68,000	56,74,000	
1875-76	1,71,12,000	53,14,000	32,46,000	87,52,000	38,51,000	7,17,000	...	7,17,000	40,68,000	42,66,000	23,23,79,000	92,95,000	52,07,000	
1876-77	1,74,46,000	54,17,000	30,25,000	90,29,000	36,03,000	7,14,000	...	7,14,000	43,17,000	47,12,000	24,20,49,000	96,82,000	49,70,000	
1877-78	1,07,11,000	54,17,000	30,25,000	91,29,000	36,31,000	8,09,000	...	8,09,000	44,39,000	45,90,000	24,70,16,000	98,81,000	51,91,000	
1878-79	1,19,90,000	54,17,000	30,25,000	90,92,000	36,31,000	9,05,000	...	9,05,000	44,39,000	30,99,000	25,22,07,000	1,00,88,000	69,84,000	
1879-80	1,32,35,000	54,17,000	30,25,000	1,02,71,000	48,21,000	9,32,000	...	9,32,000	57,53,000	45,18,000	25,91,96,000	1,08,68,000	58,50,000	
1880-81	1,32,35,000	54,17,000	30,25,000	1,11,14,000	41,55,000	10,70,000	...	10,70,000	52,55,000	58,89,000	26,50,46,000	1,06,02,000	47,13,000	
1881-82	1,45,34,000	54,17,000	30,25,000	1,20,84,000	36,61,000	10,81,000	...	10,81,000	47,42,000	78,43,000	26,97,50,000	1,07,90,000	34,48,000	
1882-83	1,50,00,000	54,17,000	30,25,000	1,23,85,000	36,61,000	11,23,000	...	11,23,000	47,88,000	76,07,000	27,32,07,000	1,09,28,000	33,21,000	
1883-84	1,27,69,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1884-85	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1885-86	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1886-87	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1887-88	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1888-89	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1889-90	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1890-91	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1891-92	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1892-93	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1893-94	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1894-95	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1895-96	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1896-97	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1897-98	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1898-99	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1899-1900	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1900-01	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1901-02	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1902-03	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	
1903-04	1,34,57,000	54,17,000	30,25,000	1,08,15,000	38,12,000	10,24,000	...	10,24,000	48,36,000	61,75,000	27,65,28,000	1,10,81,000	56,80,000	

## EXPLANATORY NOTE ON STATEMENT IX.

## Burma's Financial position in 1903-04.

1. *Budget figures.*—The figures given in columns 2 to 5 are taken from the Burma Administration Reports from 1861-62 to 1881-82, and thereafter from the Financial Statements, that for 1882-83 being the first year available. The year 1861-62 is the first year for which figures can be obtained in the Administration Reports.

2. *Allotment for provincial.*—Column 4.—The year 1871-72 was the first year in which the accounts were divided between Imperial and Provincial, and for the first seven years Imperial contributed to Provincial.

3. *Railway charges.*—Column 6.—Previous to 1896-97 the Burma Railway was a State Railway, and interest on the Capital expenditure, and all other charges were included in the Imperial side of the Provincial Accounts. From 1896-97 the figures are actuals, but are not shown in the Provincial Accounts.

4. *Army.*—Column 7.—The actual payments in Burma and in India, on account of Burma, are taken from the Administration Reports down to 1884-85. From that year to 1898-99, they have been taken from figures received from the Controller of Military Accounts, Madras. The figures from 1898-99 have also been taken for the remaining years of the period. The additions made each year to the Indian charge on account of the Home charges of the Burma Force have been estimated. The aggregate net cost of the Home charges for the entire Indian Army for the last 20 years works out to 42 per cent. of the actual aggregate net cost in India. It may be accepted that the Home charges may be divided in proportion to the cost in India, in which case Burma should be charged with 42 per cent. on her Indian cost, but to prevent the possibility of overcharging, the figures have been estimated at 38 per cent. only. It may be added that Burma, unlike any other province, has always been furnished with only her minimum requirements of Military.

5. *Interest on Irrigation Capital.*—Column 8.—The figures are actuals, worked out on a 3½ per cent. basis.

6. *Home Civil charges.*—Column 9.—The net expenditure for the past 20 years of all Civil charges, detailed in Statement VI, paid in England, works out to 4·73 per cent. of the gross revenues of India, including Burma, for the same period. It may be accepted that each province should, on an average, be charged, on this account, in proportion to its gross revenue, but to prevent any risk of overcharging, the estimates charge Burma with 4 per cent only on her gross revenues.

7. *Net Imperial Receipts.*—Column 11—gives the surpluses and deficits each year on account of the various heads already noted on, but excludes—

- (a) Burma's debt to India.
- (b) India's charges for Civil and Public Works Stores.
- (c) India's charges for Civil and Military pensions and furlough allowances paid in India.
- (d) Contributions to Royal Navy and Royal Indian Marine.
- (e) Share of Central Government in India.

8. *Burma Debt.*—Column 12.—The first Burma War, 1824, is stated in Ferrar's, and in other Works, to have cost £5,000,000. This involved a debt at 5 per cent. of 25 lakhs a year, the succeeding years must necessarily have been years of deficit, and Burma's debt to India must have increased considerably for many years. It is probable, however, that the rich districts of Lower Burma, originally annexed, produced surpluses in the latter years between the annexation and the second war in 1852, but even allowing for this it is doubtful if Burma's debt to India in 1852 could have been less than 8 crores. The second war, 1852, may be estimated to have similarly cost £5,000,000, though it was probably higher. Thus it may be estimated that the province commenced, after the annexation of 1852, with a debt of 13 crores; which at 4 per cent. interest, represented an annual payment of 52 lakhs. The new districts annexed were not so productive as the old ones, and it may be estimated, on the analogy of the following 10 years, that from 1852 to 1861, Burma's debt, including the interest on her previous debt, was increased by not less than 5 crores, making the total debt in 1861-62, the first year of the series estimated, 18 crores. To prevent any risk of exaggeration, however, 15 crores only has been adopted in the estimate as the debt of Burma to India in 1861.

9. The further calculations have been worked out by charging 4 per cent. interest on the debt (3½ per cent. from 1894-95), column 13, and deducting from that amount the imperial net receipt, representing a deficit, or *vice versa*, representing a surplus, the result being shown in column 14. The debt of each year, column 12, is accordingly calculated by adding the deficit to the debt of the previous year.

10. No estimate has been made for the further charges referred to in paragraph 7 above (b) to (e) debitable to India, but the aggregate, though considerable, may be ignored for present purposes.

RANGOON :  
The 31st January 1905. }

F. J. A.

## APPENDIX B.

(Vide page 621.)

Showing the proportion of appointments on Rs. 1,000 and over held by Indians and Europeans in 1910 as compared with 1903 and 1867.

STATEMENT I.—1903 as compared with 1867.

	EUROPEANS AND EURASIANS.			HINDUS.			MUHAMMADANS.			INDIANS (i.e., HINDUS AND MUHAMMADANS).			TOTAL OF ALL CLASSES.		
	1867.	1903.	Increase — + Decrease — —	1867.	1903.	Increase — + Decrease — —	1867.	1903.	Increase — + Decrease — —	1867.	1903.	Increase — + Decrease — —	1867.	1903.	Increase — + Decrease — —
No. of posts on Rs. 1,000 and over.	636	1,378	+ 642	12	71	+ 59	...	31	+ 31	12	92	- 80	646	1,370	+ 723
			+ 100			+ 492	...					+ 667			+ 111

STATEMENT II.—1910 as compared with 1903.

	EUROPEANS AND EURASIANS.			HINDUS.			MUHAMMADANS.			INDIANS (i.e., HINDUS AND MUHAMMADANS).			TOTAL OF ALL CLASSES.		
	1903.	1910.	Increase — + Decrease — —	1903.	1910.	Increase — + Decrease — —	1903.	1910.	Increase — + Decrease — —	1903.	1910.	Increase — + Decrease — —	1903.	1910.	Increase — + Decrease — —
No. of posts on Rs. 1,000 and over.	1,378	1,721	+ 443	71	134	+ 63	31	37	+ 6	92	161	+ 69	1,370	1,882	+ 512
			+ 35			+ 89			+ 29			+ 75			+ 37

STATEMENT III.—1910 as compared with 1867.

	EUROPEANS AND EURASIANS.			HINDUS.			MUHAMMADANS.			INDIANS (i.e., HINDUS AND MUHAMMADANS).			TOTAL OF ALL CLASSES.		
	1867.	1910.	Increase — + Decrease — —	1867.	1910.	Increase — + Decrease — —	1867.	1910.	Increase — + Decrease — —	1867.	1910.	Increase — + Decrease — —	1867.	1910.	Increase — + Decrease — —
No. of posts on Rs. 1,000 and over.	636	1,721	+ 1,085	12	134	+ 122	...	37	+ 27	12	161	+ 149	646	1,882	+ 1,234
			+ 171			+ 1,017	...					+ 1,343			+ 190

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,  
ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS  
UNDER THE PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 TO  
1909 (24 & 25 VICT., c. 57, 55 & 56 VICT., c. 14, AND 9 EDW. VII, c. 4).

The Council met at Government House, Calcutta, on Monday, the 27th March  
1911.

PRESENT :

His Excellency BARON HARDINGE OF PENSHURST, P.C., G.C.B., G.C.M.G., G.C.V.O.,  
G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*,

and 60 Members, of whom 53 were Additional Members.

QUESTIONS AND ANSWERS.

The Hon'ble Raja of Dighapatia asked :—

"1. Has the attention of the Government been drawn to the following observations made by Mr. Valentine Chirol in his book on "Indian Unrest":

"Before the Commission (Indian Public Service) sat, Indians and Europeans used to work side by side in the superior graded service of the Education Department, and until quite recently they had drawn the same pay. The Commission abolished this equality and comradeship, and put the Europeans and the Indians into separate pens. The European pen was named the Indian Educational Service, and the Native pen was named the Provincial Educational Service. Into the Provincial Service were put Indians holding lower posts than any held by Europeans, and with no prospect of ever rising to the maximum salaries hitherto within their reach. To pretend that equality was maintained under the new scheme is idle, and the grievance thus created has caused a bitterness which is not allayed by the fact that the Commission created analogous grievances in other branches of the Public Service."

"2. Are the statements of facts contained in the above extract correct? If so, will the Government state the steps taken, or which it intends to take, to remove the grievances mentioned above? Will the Government also state in what other branches of the Public Service the Indian and the Provincial system of Service has been introduced?

"3. Will the Government be pleased to state the number of appointments made in the Indian Educational Service since 1900 and state the proportion of Indians and Europeans holding those appointments Province by Province?

"4. Has any member of the Provincial Educational Service in any province in India been promoted to the Indian Educational Service since 1900? If so, how many, when and where?



[*Raja of Dighapatia ; Mr. Butler ; Mr. Sachchidananda Sinha ; the Commander-in-Chief.*] [27TH MARCH 1911.]

"5. If not, will the Government kindly state the reasons why no such promotions have been made and if there are any circulars or rules, either Provincial or Imperial, which stand in the way of such promotions ?

"6. Is the Government aware that there are some members in the Provincial Educational Services of India to-day whose researches and works in their special lines have been recognised and warmly appreciated by several European savants, Academies, Learned Societies and Scientific Institutions ?

"7. If so, will the Government state if their claims have been considered by the Secretary of State for India or pressed by the Government of India when filling up vacancies or new posts in the Indian Educational Service ? "

**The Hon'ble Mr. Butler replied :—**

"The attention of the Government has been drawn to the observations of Mr. Valentine Chirol. As I stated the other day, the position and prospects of the Provincial Educational Service are now under the consideration of the Government of India. Provincial Services exist in several departments. The whole matter was discussed thoroughly in connection with the resolution moved by the Hon'ble Mr. Subba Rao.

"A statement has already been laid on the table giving the information asked for in paragraph 3 of the question.

"Only two appointments have been made from the Provincial Educational Service to the Indian Educational Service. They were made in the years 1902 and 1903 in the Punjab and United Provinces, respectively.

"The reason against such appointments is the policy laid down by the Public Service Commission and accepted by His Majesty's Government. The Government are aware that there are distinguished members of the Provincial Educational Service. As already stated, the position and prospects of that service are now under consideration. The Government of India can give no information as to the correspondence which has passed between them and the Secretary of State in regard to the general question or to particular recommendations."

**The Hon'ble Mr. Sachchidananda Sinha asked :—**

"(a) Will the Government be pleased to state the procedure which is adopted in the case of expulsions under sections 210 and 211 of the Cantonment Code and the methods by means of which such expulsions are brought about ?

"(b) Are the Government aware that the system of expulsion operates harshly on the civil population of the cantonments ? If so, do the Government propose to modify it ?"

**His Excellency the Commander-in-Chief replied :—**

"(a) The procedure is laid down in sections 210 and 211 of the Cantonment Code, 1899, and this is followed in such cases.

"(b) Government are not aware that the system operates harshly. The persons expelled are either criminals or disorderly persons whose removal does not operate harshly on respectable members of the civil population. It is considered that sufficient provision for meeting any possible hardship lies in the right of appeal to the District Magistrate as regards cases under section 210 of the Code, and to the General Officer Commanding the Division in respect of cases under section 211. The Government of India do not propose to make any modification in the existing procedure."

**The Hon'ble Mr. Sachchidananda Sinha asked :—**

"(a) Is it not a fact that the civil Indian populations of the cantonments constitute by far the largest body of tax-payers within the municipal areas of the cantonments ?

"(b) Do they at present possess the right of electing their representatives on the Cantonment Committees ?

"(c) If not, do the Government propose to confer such rights on them ? "

**His Excellency the Commander-in-Chief replied :—**

"(a) Yes.

[27TH MARCH 1911.] [*The Commander-in-Chief; Mr. Dadabhoy; Mr. Clark; Raja of Partabgarh; Mr. Jenkins; Sir Sassoon David; Sir Guy Fleetwood Wilson.*]

"(b) No, but under rule 4 of the Cantonment Code, 1899, the General Officer Commanding a Division may, by order, appoint any residents of a cantonment, whether officials or non-officials, to be additional members of the Cantonment Committee for specified periods. This is done in many cantonments.

"(c) The question of electing non-officials is under the consideration of the Government of India."

**The Hon'ble Mr. Dadabhoy asked :—**

"(a) With reference to the Government reply of 29th March 1910, to my question regarding proposals for the amendment of the Indian law relating to life assurance, will the Government be pleased to state if any decision has been come to ?

"(b) Is the Government now in a position to lay on the table the correspondence on the subject with the Secretary of State ?"

**The Hon'ble Mr. Clark replied :—**

"The Government of India have decided to undertake legislation and have prepared a Bill for the better control of Life Assurance Companies operating in India. The draft Bill has been submitted for the approval of the Secretary of State and his orders are awaited.

"In the circumstances the Government of India are not in a position to lay on the table the correspondence with the Secretary of State."

**The Hon'ble Raja of Partabgarh asked :—**

"(a) Is the Government aware that there is a strong feeling in Oudh that an Indian should be appointed as a Judicial Commissioner of Oudh ?

"(b) Will the Government be pleased to state if it contemplates appointing an Indian to the vacancy caused in the Bench of the Judicial Commissioner by the translation of E. M. DesChamier, Esq., to the Bench of the Allahabad High Court ?"

**The Hon'ble Mr. Jenkins replied :—**

"(a) The Government of India are aware that there is a strong feeling in Oudh that an Indian should be appointed as a Judicial Commissioner in Oudh.

"(b) The appointments of Judicial Commissioner and of Additional Judicial Commissioners, Oudh, are made by the Local Government with the previous sanction of the Governor General in Council. The Government of India have received the Local Government's proposals for filling the vacancy in the Oudh Court which will be caused by the appointment of Mr. Chamier to be a Puisne Judge of the High Court at Allahabad, and these are under their consideration."

**The Hon'ble Sir Sassoon David asked :—**

"In view of the disparity shown by the percentages allowed in different Provinces, as also in the method of estimating the capital cost, for assessment for income-tax purposes for depreciation of machinery and buildings, in the statement placed on the table on the 20th instant, will Government be pleased to say whether they propose to issue orders for the adoption of a uniform system in order to place factories in all Provinces on an equal footing ?"

**The Hon'ble Sir Guy Fleetwood Wilson replied :—**

"The matter will receive consideration."

**The Hon'ble Raja of Partabgarh asked :—**

"Will the Government of India be pleased to state whether the amount of £940,000 (141 lakhs) provided in next year's Budget for the Royal visit includes the cost of the Provincial camps at Delhi ?"

**The Hon'ble Sir Guy Fleetwood Wilson replied :—**

"No. The estimate of Provincial expenditure is separate."

[*Pandit Madan Mohan Malaviya : Mr. Butler ; Mr. Mazharul Haque.*] [27TH MARCH 1911.]

**The Hon'ble Pandit Madan Mohan Malaviya asked :—**

"Will the Government be pleased to lay on the table information concerning the fee rates, or, in the absence of such rates, the general average of fees levied in arts and law colleges and in general schools, whether Government, municipal, board, or aided, in the several Provinces of British India in the year 1910; and the same as levied in the year 1904?"

"Will the Government be pleased to say if it has been decided or is contemplated to raise the existing scale of fees in any of the Provinces?"

**The Hon'ble Mr. Butler replied :—**

"Statements showing the average fee per month per pupil collected in various classes of boys' institutions in the several Provinces are laid on the table.\* The Government of India are collecting information as to the rates of fees actually in force. They are not aware whether it is proposed to raise the fee rates in any Province, but the United Provinces Government has recently appointed a Committee to examine the question of the adequacy or otherwise of the present fees in secondary schools."

#### BUDGET.

The Hon'ble Mr. MAZHARUL HAQUE : "My Lord, the details of the Budget have been so thoroughly discussed that not much remains to be said to-day. However, I should like to make a few observations on some points which are of extreme interest to the country. But before I proceed to do so I desire to offer my hearty congratulations to my Hon'ble friend the Finance Member for the very able and satisfactory Budget that he has placed before the Council. He has been exceedingly lucky in having a large windfall from Opium receipts, and most of the other heads of revenue have shown considerable improvements. The very elements have been in league with him in preparing a Budget which may truly be called a prosperity Budget. But the genius of a Finance Member does not disclose itself so much in the realisation of revenue as in the apportionment of expenditure. The two most gratifying features of the present Budget are an anxiety for economy in several departments of State and a willingness to spend more on objects of general utility. No doubt much has not been effected in the current year, but a beginning has been made in the right direction, and that is a very great thing. I find that the preachings of my Hon'ble friend have not fallen on deaf ears, and that two such departments as the Army and the Railways, whose proclivities for heavy expenditure are well known, have at last fallen to his constant attacks and are trying to practise much-needed lessons in economy. These are welcome signs of a happy future, and my Hon'ble friend is entitled to the thanks of the whole country."

"My Lord, another obvious criticism which strikes one regarding the annual discussions on the Financial Statements and the Budgets is that they are of a purely academical character and that in spite of strong and earnest representations of the non-official Members no modification or alteration is possible either in principle or important details. Out and dry proposals are placed before us in this Council and have to be accepted as such and in their entirety. Our representations may be of some help and guidance to the Finance Department in the preparation of the Budget for the coming year; but by that time new circumstances have arisen, new forces have come into play, money is wanted for some unforeseen project, and the one-year old criticisms lose their forces entirely. There is a good deal of truth in these views. Of course, the proposals of the Government by their very nature have to be kept secret to the very last moment; but if by any arrangement the non-official opinion could be ascertained and as far as possible given effect to, much of the time of this Council which is now wasted in fruitless and desultory discussions would be saved and an altogether happy impression regarding the accessibility of the officials to popular opinion will be produced in the country."

"My Lord, I should like to say a few words about two items of expenditure in the Budget. My Hon'ble friend Sir Guy Fleetwood Wilson, in his

\* *Vide Appendix A.*

[27TH MARCH 1911.] [*Mr. Mazharul Haque ; Mr. Sachchidananda Sinha.*]

speech when introducing the Financial Statement, expressed a hope that the provision of £940,000 for the Durbar expenses of His Majesty the King-Emperor will not be considered by the Council as higher than the people of India would wish to provide for the becoming celebration of a great historic event. My Lord, permit me to assure my Hon'ble friend and through him the whole British nation that we do not consider the sum to be high at all. No, most emphatically no. Indeed, we would have cheerfully borne the expenditure of a much larger amount, even of the whole surplus of the present year if necessary, for a grand and befitting reception of our beloved King-Emperor. This is the first time in the history of British connection with India that a ruling Sovereign is coming to this country, and it stirs our hearts to the very depth when we think that we, the Indian subjects of His Gracious Majesty, are so dear to him that he has taken the trouble of coming all these thousands of miles simply with the object of giving us an opportunity of seeing him. My Lord, we are an Oriental and therefore an imaginative people. Other nations of the world can hardly realise our feelings and sentiments of loyalty and love to our Sovereign Lord. When the electric wires flashed the news that His Majesty had expressed his desire to hold a Durbar at Delhi, there was universal joy in the country at the prospect of seeing our King-Emperor in our midst. The celebration of such an important event should be on such a scale of grandeur and magnitude that it may captivate the hearts and appeal to the imaginations of His Majesty's Indian subjects. My Lord, as a Musalman Member of this Council I consider it my duty to offer the humble and loyal thanks of my community to His Majesty for the kind consideration which His Majesty has shown towards the religious feelings of the followers of Islam in India. At great inconvenience to himself, His Majesty changed the dates of the Durbar so that they may not clash with the Mohurram celebrations. Such kindness goes far to strengthen and enhance the feeling of loyalty which is inherent in the Indian people. My Lord, I also expect great political results from the coming Royal visit. It will bind the people of India more firmly than ever to the British throne and teach the ruling class to treat the people with sympathy and kindness.

"My Lord, the other item of expenditure upon which I should like to touch briefly is the generous grant of my Hon'ble friend for the initial or capital expenditure on schemes of Educational and Sanitary progress. This he has been able to do because of the windfall in the Opium receipts. The grants are non-recurring. I wish that he had seen his way to begin with recurring grants, however small in amount, which would have been spent upon a definite policy of extension in Education and Sanitation. My own Province has received the handsome amount of £230,000 for these useful and much-needed reforms. As the money has been chiefly contributed by my own Province of Behar, which is the great centre of poppy cultivation in India, I express the hope that His Honour the Lieutenant-Governor of Bengal will keep the claims of Behar before his eyes and give us our fair and due share. I also hope that the major portion of the Educational grant will be spent on capital expenditure on extension of primary education and not on bricks and mortar. I am afraid that there is a tendency in these days to spend more money in constructing costly school-houses than on actual educational work. What is required is to go back to the old indigenous system of Vernacular education when every village and hamlet had a few maktabas and patshalas of its own to boast.

"My Lord, I have done. Your Excellency has commenced the administration of the country with every desire to put your trust in the people and sympathise with their natural and legitimate aspirations; the Members of your Excellency's Executive Council, among whom there is an exceptionally able and patriotic Indian, have shown a laudable anxiety to meet us half way in accepting our several representations; while we non-official Members and the public outside are ready to respond to Your Excellency's call to co-operate with the Government. These, my Lord, are happy signs which augur well for the future of India, and I am optimistic enough to fully believe in them."

The Hon'ble MR. SACHCHIDANANDA SINHA: "My Lord, it is a matter for sincere gratification that the first Budget presented to this Council during Your



[*Mr. Sachchidananda Sinha; the President; Sir* [27TH MARCH, 1911.]  
*Gay Fleetwood Wilson.*]

Excellency's administration should have been a 'prosperity Budget' in the best sense of the term, and I offer my respectful congratulations to the Hon'ble the Finance Member on the good luck that has befallen him. I must also gratefully acknowledge the disposition he has made of the surplus for the current year, and I assure him that the large allotments given by him to the various Provinces for furthering the cause of Education and Sanitation—two of the most crying needs of the country—have been much appreciated by the public.

"Coming to the alteration in the tax on tobacco, I cannot help expressing my regret that, when the occasion presented itself for any reduction, the Hon'ble the Finance Member did not see his way to reduce the tax on petroleum, which was so strongly opposed last year by most of the non-official Members of this Council, as one which hits hard the poorest classes in the country.

"The Hon'ble the Finance Member tells me I am out of order in alluding to a duty which has been settled."

His Excellency THE PRESIDENT: "I am afraid you are out of order in alluding to a duty which has already been settled by a vote of this Council."

The Hon'ble MR. SACHCHIDANANDA SINHA: "I was not discussing what has been already done, but simply indicating the policy of the Government of India in regard to fiscal matters."

His Excellency THE PRESIDENT: "I would rather you omitted any further reference to that. You have had plenty of opportunities of discussing the policy of the Government of India in regard to the question of the tobacco-duties. It is a matter which has now already been settled. Therefore, I should be much obliged if you would omit any further reference to that subject."

The Hon'ble MR. SACHCHIDANANDA SINHA: "Certainly, my Lord. This time last year, rumours were so persistent that a countervailing duty would be levied on indigenous tobacco, under pressure from the Home Government, acting under the influence of British manufacturers, that I thought it my duty in the course of the Budget debate to enter my protest against the suggestion. I am glad that our apprehensions on this point have not come true; but the reduction in the duty on tobacco—which no one wanted—in place of on petroleum, which was badly needed, is significant.

The Hon'ble SIR GUY FLEETWOOD WILSON: "May I presume to rise to a point of order? I submit that, as the rates both for petroleum and for tobacco are laid down by Statute and a vote has been taken on that Statute this year, I think the Hon'ble Member does not quite realise that he is out of order in discussing them at the present moment."

His Excellency THE PRESIDENT: "I have to emphasise the exactness of what the Hon'ble the Finance Member has just said, and I would ask the Hon'ble Member to omit any further reference to these two duties."

The Hon'ble MR. SACHCHIDANANDA SINHA: "My Lord, one of the most notable reforms connected with the present Budget is the inauguration of the system of permanent financial settlement with the eight major Provinces. Last year, in the course of the Budget debate, I pointed out that the percentage of revenue appropriated by the Imperial Government ranged from 30 per cent. in the Central Provinces to 45 per cent. in Madras; and I suggested the adjustment on more uniform lines and also such as will enable the Provinces to retain at least two-thirds of the revenue raised in them. The system now inaugurated, though it does not conform to the standard of two-thirds and one-third, is certainly a great improvement on the old settlements, and to that extent it will be conducive to the interests of the people. But I regret to notice that in the arrangements made the United Provinces have not fared as well as the other Provinces and as they might have been expected to, considering their large contributions in the past to the Imperial exchequer. Though the Hon'ble the Finance Member did not see his way to accept the Hon'ble Mr. Malaviya's resolution about the United Provinces being allotted—like the other Provinces—half and not three-eighths of their land-revenue, I am glad to find that Sir John Hewett has spoken out his mind freely and frankly on the subject. Presiding at the last meeting of the Provincial Council, he said that he had

[27TH MARCH 1911.] [Mr. Sachchidananda Sinha.]

'great sympathy with the resolution' moved in this Council, and that the financial arrangements made 'do not appear to be such as will satisfy the legitimate claims' of the United Provinces. He announced that he proposed 'to make a full but dispassionate representation to the Government of India.' Regard being had to the very high opinion which Your Excellency's Government rightly entertain of the work and worth of Sir John Hewett—and which, in fact, was the main ground urged by the Hon'ble the Home Member for refusing to accept my proposal for an Executive Council for that Province, I hope Sir John's representation will receive the careful attention of the Government of India.

"My Lord, Your Excellency is no doubt aware of the keen interest which is now being taken by all interested by the welfare of India in furthering the cause of Education—especially Primary Education—in the country. The public have therefore welcomed the creation of a separate Department for Education and allied subjects, and they have been all the more gratified to find the new portfolio entrusted to so capable and sympathetic an administrator as my Hon'ble friend Mr. Butler, whose generous enthusiasm for the spread of education has left a deep impress on the educational progress of the United Provinces. It is to us a matter of genuine satisfaction that the Government have been paying of late much greater attention to the educational needs and requirements of the country than they did before; nevertheless the fact remains that educationally India is yet perhaps the most backward country of those that have any pretensions to a civilized system of administration. The data supporting this view have been placed before this Council very recently by the Hon'ble Mr. Gokhale. A comparison between the expenditure incurred during the last twelve years on the Army, Police and Education respectively brings into strong relief the comparative indifference shown to the cause of educational progress.

Year.	IN CRORES.			
	Army.	Police.	Total.	Education.
1898-1899 . . . . .	24·01	3·56	27·57	·77
1899-1900 . . . . .	22·34	3·82	26·16	·79
1900-1901 . . . . .	22·62	3·91	26·53	·78
1901-1902 . . . . .	23·64	3·96	27·60	·83
1902-1903 . . . . .	26·02	4·04	30·06	·96
1903-1904 . . . . .	26·80	4·11	30·91	1·00
1904-1905 . . . . .	30·26	4·20	34·46	1·11
1905-1906 . . . . .	28·90	4·51	33·41	1·25
1906-1907 . . . . .	29·48	5·21	34·69	1·43
1907-1908 . . . . .	27·97	5·62	33·59	1·43
1908-1909 . . . . .	30·97	6·16	37·13	2·19
1909-1910 . . . . .	30·37	6·20	36·57	2·23

"It appears that during the twelve years from 1898-1899 to 1909-1910—the last year up to which complete figures are available—the expenditure on the Army went up by over  $6\frac{1}{2}$  crores and that on the Police by nearly  $2\frac{2}{3}$  crores or 9 crores on both. Now, the growth of expenditure on Education during the same period—after deducting the income from fees—seems to have risen only by a little less than  $1\frac{1}{2}$  crores! A great part of this relatively small increase has taken place during the last six years. From 1903-1904 to 1907-1908 it was a period of unbroken surpluses, and the claims of Education therefore received some attention at the hands of the Central Government and but for which Education would have been starved as before, and left to be taken care of by the Local Governments, whose unaided resources, as has so often been urged, are totally inadequate to meet the educational requirements of the territories under their control. I thankfully acknowledge the recognition which Education has now been receiving at the hands of the Government of India. But what I urge is that in future the pace of educational progress should be quicker.

[*Mr. Sachchidananda Sinha ; Mr. Dadabhoy.*] [27TH MARCH 1911.]

Even if the very high expenditure on Police—in 1909-1910 nearly three times of that on Education—he said to be justified, in view of the improvements being introduced in that service and the rise of political crime in some parts of the country, there is no doubt that there is little justification now for a steady rise in our Military expenditure, such as has been the case during the last twelve years. If it be impossible to reduce the number of British troops stationed in India, it should not be impossible for Your Excellency's Government to secure an equitable apportionment of the charges incurred on them between the Home Government and the Indian Government. A good deal of evidence of experts like General Brackenbury was given before the Welby Commission in support of this view, which is in entire agreement with Indian opinion. It was no Indian politician but the Government of India who expressed the opinion that—

‘The Imperial Government keeps in India and quarters upon the revenues of that country as large a portion of its army as it thinks can possibly be required to maintain its dominion there; that it habitually treats that army as a reserve force available for Imperial purposes, that it has uniformly detached European regiments from the garrison of India to take part in Imperial wars whenever it has been found necessary or convenient to do so; and, more than this, that it has drawn not less freely upon the Native army of India, towards the maintenance of which it contributes nothing, to aid in contests outside of India with which the Indian Government has had little or no concern.

“Here is a strong case made out by the Government of India for a just apportionment of the charges on the British troops stationed in this country between the Home and the Indian Governments. However that may be, it is time that expenditure on the Army were cut down so far as possible—and we are grateful to His Excellency the Commander-in-Chief for his resolve to overhaul and examine the whole Army expenditure, with a view to greater economy—and that the amount so liberated were devoted to Education. As things stand at present, it is in my humble opinion a serious blot on our system that the Army and the Police should receive so much more attention than Education as to have absorbed between them during the last twelve years no less than 25 times the money spent on the latter—379 crores as against 15 crores. The first decade of the century has been with us, under the impetus given by Lord Curzon's Government, an era of improvements in the Army and Police. We hope that the second decade, under the impetus imparted by Your Lordship's Government, will be an era of educational progress.

“Your Lordship has assumed the reins of Government at a time when the conditions of the country are favourable for the inauguration of large measures of educational and economic reforms, and I may venture to express the hope that it will fall to the lot of Your Excellency's Government to so administer this country as will be conducive to its prosperity by the expansion of its industries and trade, the spread of Education amongst its people and the improvement in their sanitary surroundings. Fiscal Autonomy, Education and Sanitation are thus the three greatest needs of the country, and I hope Your Excellency's Government will do all that is possible to further their cause.”

The Hon'ble MR. DADABHOY: “My Lord, a prosperity Budget does not call for much comment. To us the fact that it synchronises with Your Excellency's assumption of office is a happy augury for the future. The occasion is one for congratulations to the Finance Minister. Luck has been propitious to him, and the measures he took last year for maintaining equilibrium in the face of a vanishing source of revenue have proved productive beyond his expectations. That is the main feature of the Budget under discussion. I cordially wish Sir Guy Fleetwood Wilson equal good luck next year.

“But the Opium revenue and the revenue from the enhanced Silver Duty—two of the most productive sources—have been so purely accidental and so abnormal that it would be unwise to count upon a continuity of similar conditions in the future. According to the Finance Minister himself, the future of the Opium revenue is uncertain, and dependent upon circumstances beyond the control of this Government. We all wish Sir Alexander Hosie's mission would lead to a more satisfactory settlement of the Opium question; but the scope of the inquiry does not induce much hope. Sir Alexander Hosie is engaged in an examination of details, leaving the principle untouched. The result is not likely



[27TH MARCH 1911.]

[*Mr. Dadabhoy.*]

to afford any permanent relief to the Indian Exchequer. The high prices realised in the current year are exceptional, and it will be by the merest fluke that they should attend our transactions in the future. Already there is a weak feeling in the market. The system of 'earmarking' this Government has of its own motion initiated is the least likely to prove financially advantageous. However much one might admire the motives of Government, the position is full of doubt, difficulty and anxiety; and, sooner or later, this source of revenue will disappear. It will be sound finance as much as equity to cover the loss by a proportionate, or at least a substantial, grant from the Imperial Exchequer. The action of the British Government in stopping the Indian Opium trade is unquestionably sound from an ethical standpoint, but its merit is largely discounted by the fact that it involves great injustice to a helpless dependency, and throws an additional financial burden upon a poor and overtaxed people. My Lord, we do not object to Britain being generous to China, but we expect that she will be just to India as well. We claim financial help from her at this crisis.

"My Lord, the Hon'ble Finance Minister in his speech has referred to the enhanced Silver Duty with evident satisfaction. Our prediction of a fall in the price of the metal has been falsified by the events of the current year. I am glad this has been so. But, unlike Sir Guy Fleetwood Wilson, I cannot feel sure of the future. An examination of the history of the year reveals the fact that the conditions have been abnormal, and cannot continue long. The Finance Minister has fuller knowledge of the subject than anybody here, and I presume he will admit that the phenomenal speculative purchases of silver during the year alone have given tone to the market. There is an accumulation of silver in London and Bombay unique in history. A stock of silver in London worth two million pounds sterling and 25,000 bars in Bombay have been unheard-of in the past. An accumulation in Bombay of 6,000 bars a few years ago as the result of speculation brought about a crisis in the silver market. The next few months are pregnant with possibilities alarming to a degree. Apart from the question of the ability of the speculators to furnish further margin or to pay the interest due,—powerful factors in such transactions,—the normal accumulations of the metal between April and July are likely to cause an undue strain upon the market. A heavy decline is a matter of legitimate calculation in such circumstances. The experience of Sacriston of the Copper Syndicate may any time be repeated in the case of the bulls operating in silver. The Finance Minister himself says the Government of India has been spared the necessity of making large additions to the coinage from new silver. This can only accentuate the difficulties of the situation. If the Government does not come forward as a buyer on a large scale, there is little chance a slump, with consequential ruin to operators, can be averted. I have more than once referred to the effect which the enhanced duty has upon the cotton market in the Far East, and have submitted that it works as a bounty to China and Japan. The situation is not, therefore, free from difficulty, and I am sorry I cannot find in it the same cause for gratulation as the Finance Minister.

"My Lord, the warmest felicitations are due to the Hon'ble Sir Guy Fleetwood Wilson and the Government of India on the sound system of Provincial Settlement that has been inaugurated. The present satisfactory settlement of this vexed question should prove beneficial to the Local Governments while it relieves the Supreme Government of much trouble and anxiety.

"My Lord, the thanks of the community are due to Government for the decision to increase the annual allotment for Protective Irrigation Works by a supplementary maximum grant of 25 lakhs of rupees from sources other than the Famine Insurance Grant. I feel especially grateful because it has enabled Government to allot next year for the Tendula project about 18½ lakhs in addition to the 2½ lakhs spent in the current year. Speaking of irrigation, I, as a representative of the Central Provinces, beg to press upon the attention of Government the claims of the other two important schemes—the Wain-ganga and the Mahanadi. They have been before Government a fairly long time, and the people expect that the execution will be taken in hand at an early date.



[Mr. Dadabhoy.]

[27TH MARCH 1911.]

"My Lord, the appropriation of one-third of this year's large surplus revenue from Opium to the Educational and Sanitary needs of the country has the approval of the public. But the principle of the apportionment eludes examination. The Central Provinces have a just grievance in this matter. The people there are perhaps as backward as the people of any other Province, if not more, and the Province has suffered from plague even more than all the other provinces, the United Provinces excepted. But the special grant for sanitary improvement in the Central Provinces is 20 per cent. of that for Bengal and less than half of that for Madras as also of that for Bombay. The extraordinary Education grant for the Central Provinces is similarly illiberal as compared to the allotments for the other Provinces. The total grant for the Central Provinces is the smallest.

"My Lord, dealing with Provincial interests, I beg to invite Your Excellency's attention to two reforms that advanced public opinion demands for the Central Provinces. It is time there should be created a local Legislative Council for the proper discussion of Provincial matters. There could not be any serious objection to the reform. That is the only large administrative unit which is without a Provincial Legislative Council.

"The other necessary reform is connected with the administration of justice, a subject far more important from an administrative point of view than even a Legislative Council. The good-will of the people depends in a large measure upon the purity of the justice administered and the expedition with which it is administered. We have now in the Central Provinces, in consequence of the recent amendment of the Civil Courts Act, to a limited extent, in case of appeals valued above Rs. 10,000, the system, prevalent in High Courts and Chief Courts, of two Judges sitting together to hear appeals. There is congestion of work in the Judicial Commissioner's Court as can be easily imagined. The appointment of a fourth Judge has thus become necessary, and I have every hope the subject will receive at the hands of Government the consideration which its importance deserves.

"Closely connected with this is the question of improving the status of the final tribunal in the Central Provinces. A Chief Court is far better than the Courts of Judicial Commissioners. It commands greater confidence among the people, and this of itself is recommendation enough to deserve favourable consideration at the hands of Government.

"Speaking of reform in the administration of justice in the Central Provinces, I am led to discuss the larger question of the appointment of practising lawyers as District and Sessions Judges throughout India. My Lord, the Government attitude with regard to this subject appears to be inexplicable. In reply to my question of 24th January last, Government said they were 'not prepared to take the action indicated'. It would have been well if the Government reply had been more illuminative. Trained lawyers, barristers and vakils, have been appointed by Government to fill the highest judicial posts; the experiment has proved eminently successful. It is now a settled principle with Government that a certain percentage of High Court and Chief Court Judges should be Indian lawyers of experience. The principle has received its legitimate extension in the appointment of Additional Judicial Commissioners. Sir Herbert Risley, in reply to a question of mine, laid down the Government policy in terms which could only induce the hope that, sooner or later, this principle of the appointment of capable Indian lawyers as Judges would receive a further development, and a number of District and Sessions Judges would be recruited from them. People wonder what objection there could be to the course. My Lord, may we look to Your Excellency for the initiation of the reform as the first instalment of that sympathetic administration which it is Your Excellency's desire should mark your *régime*?

"My Lord, Viscount Haldane's announcement in Parliament that the Indian Army may have to be reinforced before long has filled the country with alarm. It comes as a surprise to the people at a time when they are fondly hoping for a reduction in expenditure, both Civil and Military, as the result of the economies the Hon'ble Sir Guy Fleetwood Wilson has promised to enforce. We confidently hope Government will resist all attempt on the part of the Imperial Government to throw additional burdens on India.